# CHILD SUPPORT ENFORCEMENT PROGRAM

# HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

FEBRUARY 23, 25; AND MARCH 2, 1988

**Serial 100-56**

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE
88-249 WASHINGTON : 1988

H781-24

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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# CHILD SUPPORT ENFORCEMENT PROGRAM

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## TUESDAY, FEBRUARY 23, 1988

House of Representatives,
Committee on Ways and Means,
Subcommittee on Public Assistance
and Unemployment Compensation,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:15 a.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

[Press release of Monday, February 8, 1988]

Hon. Thomas J. Downey, Acting Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, Announces Hearings on the Child Support Enforcement Program To Be Held on February 23, February 25 and March 2, 1988

The Honorable Thomas J. Downey (D., N.Y.), Acting Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will conduct hearings on the Child Support Enforcement program, which is authorized under Title IV-D of the Social Security Act. The hearings will be held on Tuesday, February 23, Thursday, February 25 and Wednesday, March 2, 1988. The hearing will begin at 10:00 a.m. and will be held in room B-318 Rayburn House Office Building.

In announcing the hearings, Chairman Downey said, "It has now been four years since enactment of the last major child support enforcement amendments. Much progress has been made but more remains to be done. The Subcommittee will use these hearings to carefully examine the status of the 1984 amendments and to learn more about several other child support issues. Our purpose is simple: to set an agenda for the remainder of the 1980's and look ahead to the 1990's."

On each of the three hearing dates, different issues will be addressed. Individuals and organizations interested in presenting oral testimony before the Subcommittee are asked to address one of the following issues:

### FEBRUARY 23, 1988

*The Status of the 1984 Amendments.*—Which provisions of the 1984 amendments remain to be implemented and why; what is the status of wage withholding, is it being applied to interstate cases, and how has the business community responded to these requirements; what do the State child support guidelines, developed pursuant to the 1984 amendments, provide; and to what extent are States using the enhanced Federal funding for development of automated information systems?

*Interstate Child Support Enforcement.*—What has been learned from the interstate demonstration projects; how is the model State law—the Uniform Reciprocal Enforcement of Support Act—working at the State level and what improvements are needed; and what is the long-term solution to the establishments and enforcement of support orders across State lines?

### FEBRUARY 25, 1988

*Paternity Establishment.*—What are the current barriers to paternity establishment faced by the States; what special problems do teenage parents present; how useful would social security numbers in the birth record be; and what are the costs and benefits of paternity establishment?

*Improving Collections and Enforcement.*—What is the collections potential; beyond the 1984 amendments and the provisions included in H.R. 1720, are there other techniques that can be successful in establishing and enforcing orders; and how should orders be updated?

### MARCH 2, 1988

*The Future of Child Support Enforcement.*—What will the major problems of the next decade be; what is the role of the courts and how can the court process be streamlined; what is the appropriate Federal role with respect to enforcing visitation rights; should work requirements be imposed on non-custodial parents who cannot meet their support obligations; what do demographic data tell us about future trends and their implications for child support enforcement; what is the role of computers and automation?

### *Details for submission of requests to be heard*

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler [(202) 225-1721] no later than close of business, Wednesday, February 17, 1988. The request should indicate the date and topic to be addressed. The telephone request must be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee [(202) 225-1025].

It is urged that persons and organizations having a common position make every effort to designate one spokesperson to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing (see formatting requirements below). This process will afford more time for members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the Subcommittee office, B-317 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

### *Written statements in lieu of personal appearance*

Persons wishing to submit a written statement for the printed record of the hearings should submit at least six (6) copies of their statement by the close of business, Friday, March 18, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and interested public, they may deliver 75 additional copies for this purpose to room B-317 Rayburn House Office Building on the date of the hearing.

### COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement of exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing mut be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

Acting Chairman DOWNEY. The subcommittee will come to order.

This morning we begin the first of three sessions designed to help us set the agenda for the child support enforcement program.

We will start by examining the status of the last major piece of legislation affecting this program—the Child Support Enforcement Amendments of 1984.

Four years have passed since this bill was enacted into law, and we need to be certain that it has been fully and effectively implemented at the State level.

I am most interested in knowing what the Department of Health and Human Services is doing to assure full implementation and am pleased that Robert Harris is here this morning from HHS to report on their activities.

We will also take testimony today on what I consider to be the linchpin issue in the child support area—interstate enforcement. Although we have made progress toward reducing the barriers to collecting child support across State lines, more remains to be done. I hope today's witnesses will suggest creative solutions.

The hearing will continue on Thursday, February 25, focusing on paternity establishment and improving collections and enforcement.

The final day of hearings will be March 2, when we will consider the future of the child support enforcement program.

In addition, I would like to announce that on March 2, Wayne Stanton, the Director of the HHS Office of Child Support Enforcement will testify on the reorganization of that office. He will also make recommendations about the future of the program.

Hank, do you want to make any opening statement?

Mr. BROWN. Thank you, Mr. Chairman. I would like just to briefly indicate our strong support for these hearings. We think it can be very beneficial to have this update on the child support enforcement program.

This is an area in which there is strong bipartisan support for changes. Both H.R. 1720 and H.R. 3200 dealt with child support as part of welfare reform.

Congresswoman Roukema has shown great leadership in this area, and I know she wants to testify at later hearings. We have a real potential of significantly expanding single-parent family income by increasing child support collections—and of doing so in a way that provides not only assistance for the family but relief for the taxpayers.

Under the leadership of this subcommittee, and with bipartisan support, we look forward to substantial progress in child support enforcement in the coming years.

Thank you, Mr. Chairman.

Acting Chairman DOWNEY. Thank you. Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman, and thank you for holding these hearings. Mr. Chairman, I would like to express, obviously, strong support for these hearings. As a sponsor, along with former Representative Carroll Campbell, I was involved and very active in the 1984 amendments and obviously we have had some time to see the effect of these amendments. We know that all the things we might have hoped for have not yet happened—but we think we will be able to gauge the effect of the 1984 amendments and do what we would hope to be only fine-tuning, but I think we know is more than that.

Mr. Chairman, I would like to ask that my whole statement be placed on the record.

Acting Chairman DOWNEY. Without objection, it is so ordered.

[The statement of Mrs. Kennelly follows:]

### OPENING STATEMENT OF HON. BARBARA B. KENNELLY

Thank you Mr. Chairman and I would also like to thank you for holding these hearings on child support enforcement at this time. As the sponsor of the 1984 amendments, along with former Representative Carroll Campbell, I am anxious to see how the 1984 amendments have improved the collection of child support awards. We put a good, solid idea into place with the passage of these amendments. These new laws have been in place long enough now for us to gauge their effect and do any fine tuning that may be necessary.

It is a painful fact that one quarter of our Nation's children are living in poverty. John Stuart Mill eloquently stated long ago that "to fail to provide for the support of a child is a moral crime, both against the unfortunate offspring and against the society; and if the parent does not fulfill this obligation, the State ought to see it fulfilled at the charge, so far as possible, of the parent." That is what the 1984 amendments were all about, and that continues to be our charge today. And in those instances where the poverty of the parent prevents adequate support of the children, it is our responsibility as a humane and just society to contribute to that support.

When we made changes to the original 1975 law, it was clear to me that many children, regardless of the level of the absent parent's income, were adversely affected by the lack of child support. Children were being shortchanged by parents who refused to acknowledge their responsibility for support. We set out to make the program more effective—not only for the purpose of reimbursing the welfare system, but for aiding all families who needed help.

Between 1978 and 1981 the average amount of child support paid (after adjusting for inflation) declined. Recently published Census Bureau statistics have shown that from 1983 to 1985 the average child support payment dropped 12.4 percent. There may be several possible reasons for this decline. One may be that increased enforcement activities may have led to a greater number of fathers with lower incomes paying child support. This would have the effect of lowering the average amount paid. However, these statistics may represent a troubling trend which makes it urgent that we evaluate the effectiveness of the 1984 amendments. Therefore, what we ask of you today is to share your experiences with the 1984 provisions. It is important for us to know what obstacles you may have encountered in implementing the provisions. We are also interested in the results of those who have conducted State and local level research on the extent to which these amendments have been effective in reducing poverty.

Another set of issues arose during the child support debate; that of the rights of noncustodial parents. Emotional support provided by the noncustodial parent plays an important role in the development of a child. In our discussion of child support we should listen to the issues raised by noncustodial parents.

In addition, while the administration has stated that child support enforcement is a high priority, the question remains whether it has aggressively pursued the objectives of the 1984 amendments. I feel that this question should be fully explored.

Once we have examined where we stand today, I hope we will also be able to look toward the future, and consider where we go from here. Do we expand our efforts in the same areas that we have traditionally looked to for improving the support of children or do we look in new directions and towards new methods to reduce the level of poverty among our Nation's children? Should we look to changes in Federal law to take us further down the path we began in 1984, or is more aggressive state action the primary need? And can the Federal government do more to help States solve interstate problems of child support enforcement?

So, Mr. Chairman, we have many issues before us. I thank you again for scheduling these hearings and hope they will assist us in determining how we may improve the child support system for the benefit of our children.

Acting Chairman Downey. The first panel will be Robert Harris, the Associate Deputy Director of the Office of Child Support Enforcement, and Joseph F. Delfico, the Senior Associate Director, Human Resources Division.

Mr. Harris, would you please begin.

## STATEMENT OF ROBERT C. HARRIS, ASSOCIATE DEPUTY DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Harris. Thank you, Mr. Chairman. With your permission I would like to insert my full statement for the record, and just proceed with the summary at this time.

Acting Chairman Downey. Without objection, it is so ordered.

Mr. Harris. Thank you.

Mr. Chairman, and members of the subcommittee, the Child Support Enforcement Amendments of 1984 required States to implement most of its provisions by October 1, 1985, unless State legislation was needed to carry out the Federal requirements.

Since this proved to be the general rule, the effective date for a State was the beginning of the fourth month after the State's first legislative session that ended on or after October 1, 1985.

Because of the way the effective date of the 1984 amendments is written, Nevada had until December 31, 1987, to submit State plan materials to the Office of Child Support Enforcement, attesting to their implementation of provisions approved by Congress more than 3 years earlier.

Today, with a few exceptions, the States have implemented the 1984 amendments. I mean that States have passed laws, developed regulations or court rules, and submitted for approval State plan amendments attesting to their implementation.

Our program reviews and audits show that actual day-to-day operational usage reflects varying degrees of effectiveness and efficiency. Based on State plan submissions, mandatory wage withholding has been implemented by 53 of the 54 States, territories, and the District of Columbia. The plan materials for Nevada are currently under review.

Provisions for extending paternity statutes of limitation to 18 years, for the imposition of liens, for use of security and bonds, for reporting to consumer credit agencies, and for providing for wage withholding in all new child support orders have been implemented by all 54 jurisdictions.

State tax refund offset has been implemented by 43 jurisdictions. Ten States received exemptions because they have no State income tax. Pennsylvania has failed to implement State tax refund offset and is on notice awaiting a hearing.

States are not required to develop an expedited legal decision-making process if the entire State, or specific political subdivisions are already meeting the processing time standard set forth in Federal regulations.

That standard requires 90 percent of cases to be disposed of in 3 months, 98 percent of cases in 6 months, and 100 percent within a year. Hawaii, and parts of five other States granted exemptions for expedited legal process had them revoked between October 1987, and February 1988, because, based on State-supplied reports, the required timeframes were not being met.

They currently must implement an expedited process by the fourth month from the date of their notification letter, or, if legislation is needed, by the fourth month after their first legislative session following notification.

Pennsylvania never implemented expedited process. The State is on notice pending a hearing which may determine that its State plan is not approvable.

Child support guidelines have been implemented by 50 States. The District of Columbia and the Virgin Islands have submitted State plan amendments which are under review.

Maryland and Guam are in danger of being notified of the intent to disapprove their State plan due to failure to implement guidelines.

We have closely monitored implementation of the 1984 amendments. Twelve States, at one time or another, over the past 14 months, have been put on notice that their State plan may be disapproved for failure to timely implement requirements of the 1984 amendments.

Most problems related to features of wage withholding. Eleven States subsequently implemented the necessary provisions through enactment of State legislation without the necessity of suspending Federal funding. The 12th State, Pennsylvania, is scheduled for a hearing in March.

OCSE audits determine substantial compliance with Federal requirements when State plans have been approved. Because of the recency of implementation of many of the more significant requirements of the 1984 amendments, audits are only now being conducted which bear on these compliance issues.

Based on audits of fiscal year 1984 performance, 14 States or territories were found not to be in substantial compliance. Audits of fiscal year 1985 performance found another 18 jurisdictions not to be in substantial compliance.

Audits of fiscal years 1986 and 1987 performance are in varying stages of completion. States found not in substantial compliance are penalized, for first offenses, from 1 to 2 percent of the Federal AFDC funds for their State.

The penalty is suspended while they are taking action under an approved corrective action plan. If the State comes into substantial compliance, the penalty is forgiven.

The major causes of substantial noncompliance are failure to take necessary action to locate absent parents (21 States), establish paternity (19 States), establish support orders (11 States), and enforce support orders (3 States). Nine States kept such poor records that a significant portion of cases selected for audit review could not be located.

Program reviews conducted by our regional offices are an early warning for States of areas where an audit might find substantial compliance problems.

These fiscal year 1987 reviews, in 34 States, focused on wage withholding and other enforcement techniques of the 1984 amendments. They uncovered ineffective use of available enforcement tools, inadequate recordkeeping, and operational and caseflow deficiencies.

It is difficult to assess the impact of the 1984 amendments at this time. Because of implementation timetables, the major effects probably are still to be felt.

We recently awarded a contract to Mathematica Policy Research to evaluate the effects of the 1984 amendments. Meanwhile, child support collections in fiscal year 1987 were up 20 percent from 1986, and reached nearly $4 billion, compared to about $3.2 billion for 1986.

From fiscal year 1984 to 1987 collections rose by 65 percent, child support orders established increased by 42 percent, and paternities established increased by 16 percent.

Significant growth is also to be seen in resources for the program. Staffing, at State and local levels, is up 26 percent from fiscal year 1984, and program expenditures have increased by 46 percent.

Effective paternity establishment is the key to an effective support enforcement program. Thus, we have a major initiative underway to improve the working relationship between State AFDC and child support enforcement programs.

Recently, several grants were awarded for demonstration projects to improve the AFDC/child support interface, and to demonstrate that paternity establishment efforts can be dramatically improved at reasonable cost.

Based on our discussions with child support professionals, and our own monitoring, the most difficult provisions of the 1984 amendments to implement have been bonds, expedited process, and wage withholding.

Almost half of the States granted 1-year expedited process exemptions, based on the presumption that they would prospectively meet processing time requirements, have had those exemptions revoked.

The detailed requirements for mandatory wage withholding, once enacted by State legislatures, necessitate sound management and accurate records, and States were faced with large backlogs of delinquent cases which compounded startup problems.

Wage withholding nationally grew as a percentage of total collections from 23 percent in fiscal year 1986 to 31 percent in 1987, and is projected to be only 39 percent of total collections in fiscal year 1989, with large variations among the States.

Final regulations were published in the Federal Register yesterday to strengthen interstate support enforcement. They require States to establish a central registry to receive, control, and track incoming cases from other States.

They also clarify State responsibilities for working and paying the costs associated with interstate cases. We expect these regulations to significantly improve interstate enforcement.

Additional efforts include: building on the regional networks developed by interstate demonstration projects to create a national network which can access vital information concerning absent parents, as well as transferring and tracking case information, and standardized forms, now in use, which will greatly facilitate interstate communications.

In summation, we are making progress in child support enforcement, but the problems and the potential are great.

Thank you, and I will be open to any questions at this time.

[The statement of Mr. Harris follows:]

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

STATEMENT BY ROBERT C. HARRIS
ASSOCIATE DEPUTY DIRECTOR
OFFICE OF CHILD SUPPORT ENFORCEMENT
ON
STATUS OF THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984
FEBRUARY 23, 1988

Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to discuss the implementation of the Child Support Enforcement Amendments of 1984 (P.L. 98-378).

Public Law 98-378 passed the Congress unanimously in 1984. It requires the States to implement provisions for wage withholding, expedited legal processes, offset of income tax refunds, and other enforcement remedies to assure that parents provide the support that they morally and legally owe to their children. Public Law 98-378 required States to implement most of its provisions by October 1, 1985, unless -- and this is a major exception -- State legislation is needed to carry out the federal requirements. In such cases, the effective date for a State would be the beginning of the fourth month after the end of the State's first legislative session that ends on or after the October 1, 1985 effective date of the Amendments. Since every State had to change its statutory base, for example to accommodate the relatively detailed federal requirements for wage withholding, the effective dates for individual States to come into compliance with the 1984 Amendments ranged from October 1, 1985 to October 1, 1987. In addition, the effective date for the support award guidelines requirement established in 1984 was October 1, 1987 for all States. Further, States are allowed until the end of the calendar quarter to submit their State plan materials attesting that they have implemented the law's requirements. Because of the way the effective date of the 1984 Amendments is written, Nevada had until December 31, 1987, to submit State plan materials to the Office of Child Support Enforcement (OCSE) attesting to its implementation of the provisions approved by Congress more than three years earlier.

I am pleased to be able to report that today the States, with a few exceptions, have implemented the provisions of the 1984 Amendments. By this, I mean that States have passed laws, developed regulations or court rules, and submitted approvable State plan amendments attesting to their implementation of the 1984 Amendments' requirements. Program reviews and audits conducted by the Office of Child Support Enforcement show that actual day-to-day implementation of the provisions of the 1984 Amendments reflects varying degrees of effectiveness and efficiency. Record keeping, case tracking and monitoring deficiencies have certainly been apparent. Thus, State automated systems development is one of our highest priorities because it is so vital to effective implementation of the 1984 Amendments. In 1986, an automated systems transfer strategy was announced to more quickly, and more economically, improve the automation of State and local support enforcement activities. The objective is to transfer existing, proven automated systems wherever possible to avoid the necessity of having to "reinvent the wheel" in every State -- and to speed up the development of automated systems.

Based on plan materials submitted by the States, mandatory wage withholding, which is one of the keystones of the 1984 Amendments, has been implemented by 53 of the 54 States, territories and the District of Columbia. The State plan material for Nevada is under review in OCSE.

Provisions for extending the paternity statutes of limitation to 18 years, for the imposition of liens, for use of security and bonds, for reporting to consumer credit agencies, and for providing for wage withholding in all new child support orders have been implemented by all 54 States, territories, and the District of Columbia.

State tax refund offset has been implemented by 43 States. Ten States have received exemptions, as provided by the 1984 Amendments, because they have no State income tax. One State, Pennsylvania, has failed to implement State tax refund offset and is on notice awaiting a hearing which may determine that its State plan is not approvable.

In addition, the 1984 Amendments provide that States may be granted exemptions from implementing the mandatory enforcement techniques if they can show that alternative practices are more effective and efficient. In the case of State income tax refund offset, States with no income tax are obviously exempted. For expedited process, States are not required to develop an expedited legal decision-making process if it can be shown that the entire State or specific political subdivisions are already meeting the processing time standard set forth in federal regulations. That standard requires 90 percent of cases to be disposed of in three months, 98 percent of cases in six months, and 100 percent within a year.

Six States were granted exemptions which have been revoked in the time frame from October 1987 to February 1988 because, based on State-supplied reports, the required time frames were not being met, either in all or select political subdivisions across the state. These States currently must implement an expedited process by the beginning of the fourth month from the date of their notification letter, unless legislation is needed, in which case, they must implement by the beginning of the fourth month after the end of their first legislative session after the notification letter. One State, Pennsylvania, is on notice, pending a hearing, which may determine that its State plan is not approvable.

Child Support guidelines have been implemented by 50 States. Two additional jurisdictions, the District of Columbia and the Virgin Islands, have submitted State plan materials which currently are under review by the Office of Child Support Enforcement. Two other jurisdictions are about to be notified by OCSE of the intent to disapprove their State plan for operation of a child support program, due to failure to implement the guidelines provision of the 1984 Amendments.

The Office of Child Support Enforcement has closely monitored the implementation of the 1984 Amendments. Twelve States, at one time or another over the past 14 months, have been put on notice that their State plans may be disapproved for failure to timely implement requirements of the 1984 Amendments, which would result in a loss of federal financing of their child support programs. Most problems related to features of wage withholding. Eleven of these States subsequently implemented the necessary provisions through enactment of State legislation without the necessity of suspending federal funding. The twelfth State, Pennsylvania, is scheduled for a hearing in March.

This same process has been applied to the subsequent new child support provision in Public Law 99-509, enacted on October 21, 1986, which prohibits the retroactive modification of child support arrearages.

Office of Child Support Enforcement audits will determine substantial compliance with the requirements of the 1984 Amendments once State plans have been approved. Because many of the most significant requirements of the 1984 Amendments have only recently been implemented, audits are only now being conducted which bear on these compliance issues. However, a large number of audits have been conducted under the audit procedures revised by the 1984 Amendments. Based on audits of FY 1984 performance, 14 States or territories were found not to be in substantial compliance. Audits of FY 1985 performance found another 18 States or territories not to be in substantial compliance. Audits of FY 1986 and FY 1987 performance are in varying stages of completion. States found not to be in substantial compliance are penalized for the first such finding from one to two percent of the federal AFDC funds for their State. The penalty is suspended while they are taking corrective action under an approved corrective action plan. If during the corrective action period, not to exceed one year, the State comes into substantial compliance, the penalty is forgiven. Penalties of two to three percent for second findings and three to five percent for subsequent findings can also be assessed.

These 32 jurisdictions have had penalties suspended while they undertake corrective action to come into compliance. The major causes of noncompliance are failure to take necessary action to locate absent parents (21 States), failure to take necessary action to establish paternity (19 States), failure to take necessary action to establish child support orders (11 States), and failure to enforce support orders (3 States). Nine States kept such poor records that a significant portion of cases selected for audit review could not be located.

In addition, program reviews conducted by the Office of Child Support Enforcement Regional Offices have been used as an early warning to indicate to States those areas where an audit might find substantial compliance problems. These 48 site reviews, which encompassed 33 States, focused on wage withholding and other enforcement techniques of the 1984 Amendments. They uncovered problems related to ineffective use of available enforcement tools, inadequate recordkeeping, and operational and caseflow deficiencies. With this feedback, States are given an opportunity to assure substantial compliance before audits are conducted.

It is difficult to assess the impact of the 1984 Amendments at this time. Because of implementation timetables, the major effects of the Amendments probably are still to be felt. We recently have awarded a $1.02 million contract to Mathematica Policy Research to evaluate the effects of the 1984 Amendments. The project will take at least two years and will produce some definitive results.

Meanwhile, child support collections in FY 1987 were up 20% from FY 1986 and reached nearly $4 billion compared to approximately $3.2 billion in FY 1986. From FY 1984 to FY 1987, collections rose by 65%, child support orders established increased by 42%, and paternities established increased by 16%. Significant gains are to be seen in resources for the program. Staffing at State and local levels is up 26% from FY 1984 and program expenditures have increased by 46%.

Effective paternity establishment is the key to an effective support enforcement program. And early intervention is critical to secure paternity establishment in a cost-effective manner. Toward this end, we have a major initiative underway to improve the working relationship between State AFDC and Child Support Enforcement programs. Central to this initiative are improved efforts to obtain complete information from and to secure the cooperation of AFDC applicants and recipients in identifying fathers, establishing paternity, and other aspects of the support enforcement process. Recently, several grants were awarded for demonstration projects to improve AFDC/CSE coordination and others were awarded to demonstrate that paternity establishment efforts can be dramatically improved at reasonable cost. Where efforts to obtain initial acknowledgement of paternity fail, expanded use of blood and other tests and expedited legal processes will make paternity establishment much more effective and efficient.

Based on our discussions with child support professionals and our monitoring of implementation, the most difficult provisions of the 1984 amendments to implement have been bonds, expedited process and wage withholding.

States are meeting the security or bond requirements almost exclusively by using security rather than bonds. This is because bond underwriters are not attracted to such a high risk business as child support.

Some have resisted the development of expedited legal processes, involving as it does the creation of new modes of operation and perhaps the hiring and training of new personnel to hear child support cases. It is noteworthy that almost half of the States, which were granted one-year exemptions based on the presumption that they would prospectively meet processing time requirements for case processing, have had those exemptions revoked. The 18 States, which have been granted 3 year exemptions because their existing court-oriented processes have met federal standards in the immediate past, will be audited over time to determine if they are continuing to meet the standards.

The specificity of federal legislative requirements for mandatory wage withholding required State legislatures to maintain a disciplined adherence to complex legislative language. Federal requirements, once enacted by the States, necessitate sound management and accurate records. Payments of child support must be precisely monitored and delinquencies must be responded to promptly. The process requires maintaining the capability to readily identify employers and to keep track of employment changes. And since withholding applies to existing cases as well as new cases, States were faced with large backlogs of delinquent cases which compounded start up problems.

Wage withholding grew as a percentage of total collections from 23 percent in FY 1986 to 30 percent in FY 1987 and is projected to be 39 percent of the total collections in FY 1989, with wide variations among the States. It appears at this point that use of wage withholding in interstates cases is having particular difficulty because of the novelty of the procedures.

A central OCSE goal is to attack the chronic problem of support enforcement across State lines -- a serious problem, accounting for approximately 30 percent of the overall child support caseload. A child's right to support doesn't end simply because the parents live in different States. A parent cannot be allowed to escape his or her support obligation simply by moving.

We are in the midst of a number of efforts to help States solve the complex problems intrinsic to interstate paternity establishment and child support enforcement. Final regulations were published in the Federal Register on February 22, 1988, to strengthen the interstate process. The regulations require States to establish a central registry to receive, control, and track incoming cases from other States. They also clarify State responsibilities for working and paying the costs associated with interstate cases. We expect these regulations to significantly improve interstate enforcement.

Additional efforts in the interstate arena include:

(1) Building on the regional networks developed by interstate demonstration projects, to create a federally developed national network linking together all States, which can access vital information concerning the identity, locations, employment, income and assets of absent parents, as well as transferring and tracking case information; and

(2) Standardized forms which have been developed and are in use, which will greatly facilitate communications from jurisdiction to jurisdiction. (These forms were jointly developed with judges, prosecutors, child support agencies and other interested parties, and use of the data elements is now mandatory as a result of the published final regulations.)

While many problems exist and continue to command our attention, it is encouraging to note that between FY 1986 and FY 1987 collections in interstate cases increased at a rate of 24%. This is one indication that the system is beginning to respond to the efforts to solve the interstate problem.

The interstate demonstration projects authorized by the 1984 Amendments have helped to focus attention on the need to improve interstate enforcement. The projects have provided financial stimulus to develop State-specific approaches to improving the process. It is clear from these projects that attention and resources coupled with improved management and control of caseload goes a long way to improving effectiveness. Improved communication among the States directed toward locating of absent parents and their employers and maintaining current information needed to work cases is essential to achieve improved interstate support enforcement. Automated systems to manage caseloads, with the necessary standardization that this implies, will go far toward solving the interstate problems just as they will help dramatically to improve intrastate program effectiveness and efficiency.

While we are making progress in child support enforcement, the potential is still great. Large backlogs of cases susceptible to wage withholding remain in many States. There is a pressing need for States to develop effective procedures to make maximum use of liens. Credit bureaus can play a more important role in enforcing support orders. Improved efforts to establish more paternities must be undertaken. Initiatives are underway in all these areas.

A continuing high level of commitment to improving the effectiveness of child support enforcement through stronger laws and better program management on the part of Federal, State and local authorities is necessary. We are committed to the goal of assuring that parents meet their legal and moral obligation to provide adequate support for their children.

Thank you. I would be open to any questions you may have.

Acting Chairman Downey. Thank you, Mr. Harris.

Mr. Delfico.

## STATEMENT OF JOSEPH F. DELFICO, SENIOR ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. Delfico. Thank you, Mr. Chairman.

With your permission I would like to submit the whole testimony for the record and present a summary.

Acting Chairman Downey. Without objection, your whole statement will be entered into the record at this point.

Mr. Delfico. Thank you. With me today are Margie Shields, Byron S. Galloway, and Neil Miller who have worked on child support at GAO, for the past 4 years, and they will be available to answer any questions you may have.

We are pleased to be here today to discuss our work on the child support enforcement program. Since the program was established in 1975, GAO has issued a number of reports and testified on various aspects of the program. Most recently, we issued a report focusing on State child support agencies' efforts to determine paternity and obtain support orders for children receiving AFDC. Currently, we are reviewing interstate child support enforcement for this subcommittee. My testimony will focus on issues addressed in these two efforts.

The child support program was created to meet both financial and social goals. Despite significant accomplishments since the program's inception, all work, and the work of others indicate that progress towards achieving these goals has been hindered in part because of problems in program management.

A possible effect of these problems may be in the interstate area: lower average monthly child support payments for interstate cases. We estimate that for cases with collections in fiscal year 1986, the average monthly collection received by States for interstate cases was 37 percent lower than the average monthly collection for all States. This may be a function of the uniqueness of the interstate cases, the reliability of the caseload and collection data, the processes used in the various States or other factors. During our continuing work for the subcommittee, we plan to examine the reasons for this disparity.

Of the many aspects of program design and management, our recent work focused, as I mentioned earlier, on identifying problems in establishing paternity and support orders, and in processing interstate cases.

The problems we found indicate that there is an inability to treat cases consistently, and in a timely manner, due to inadequate case management. There is an inability to provide adequate program oversight due to unreliable data. And there is an inability to properly assess program effectiveness due to the lack of adequate tools to measure performance. In addition, in defining interstate problems, we have identified barriers such as lack of automation of State programs which have affected enforcement of interstate cases.

Our work indicates States lack adequate case tracking and monitoring. In our April 1987 report, we concluded that insufficient case tracking and monitoring contributed to some cases not being opened by States' child support agencies when referred by States' AFDC agencies, some cases being prematurely closed, and some cases going unattended for 6 months or longer. As a result, paternity was not established and/or support orders not obtained, when needed, in 42 percent of the AFDC cases that we sampled.

Our current work also indicates a need for better tracking and monitoring of interstate cases. Not all cases sent from one State to another go through State child support agencies, and there is no central location for tracking interstate cases in over one-third of the States.

OCSE has published proposed regulations, and we learned today, has finalized them—which it believes will improve States' abilities to track interstate cases by requiring incoming child support cases from other States to be processed through a State-level central registry.

In our April 1987 report we concluded that program data OCSE obtained from the States and reported to Congress did not provide an accurate and complete picture of program operations to enable the Congress and others to properly assess the program's performance. HHS noted in its comments on our report that corrective action was underway in several States to eliminate the data problems identified by OCSE auditors.

Nonetheless, our ongoing work also raises questions about the reliability and usefulness of available caseload and collection data. OCSE officials told us that they have reservations about the reliability of the data reported by the States. In its most recent report to the Congress for fiscal year 1986, OCSE indicated that data reported by the States were incomplete and inconsistent. Similarly, four State child support agencies responding to our questionnaire told us that interstate caseload data were not complete because all cases are not tracked through these agencies. Nine States told us that their interstate caseload data were not reliable, and 12 other States did not provide interstate caseload data to us for a variety of reasons. For example, one State said that providing such data on caseloads would require surveying 92 counties.

The Social Security Act required OCSE to establish standards to assure that the State child support programs are effective. Our work has shown that while Federal standards are used to assess States' collection performance, there are no standards—such as case processing time—to assess how effectively agencies locate parents, determine paternity, or obtain and enforce support orders. In response to our questionnaire, States reported that when they refer cases to other States case processing takes almost 6 months longer, on an average, than for all cases in general. Without case processing time standards OCSE's ability to assess the effectiveness of States' performance of these activities is rather limited.

As part of our ongoing work, we asked child support agencies and 10 national organizations interested in child support to identify barriers to interstate child support collections. Among the barriers most frequently identified as greatly affecting states' abilities to collect interstate child support payments were a lack of automation within States, different policies and procedures among States, and the lack of staff.

Fewer than half the States have automated their case tracking systems for use in all child support enforcement activities, from locating parents to making collections. An analysis of States' questionnaire responses indicated that States with automated systems generally process cases faster and more effectively than States that are not automated.

States use various practices and procedures to perform such child support activities as establishing paternity, obtaining support orders and collecting support. The practices and procedures used vary depending on legal options available and case circumstances. For example, many States have long-arm laws through which one State can pursue child support enforcement in another State without referring the case to the other State. However, the provisions and conditions under which such laws can be used varies. In addition, all States have adopted some form of the Uniform Reciprocal Enforcement of Support Act, which is model legislation through which one State can pursue support enforcement in another State through reciprocity. However, there are several versions of this act, and States' procedures for pursuing child support enforcement vary depending upon which version of the law was adopted by the States.

During our continuing work we plan to visit selected States and local child support offices to determine what practices and procedures are used to pursue child support. Our objective will be to identify ways to simplify procedures and to eliminate barriers to interstate collections.

During our paternity and support orders work, five out of eight local child support agencies we visited said they had insufficient staff to perform certain tasks required by Federal regulations. We did not evaluate the adequacy of the agency staff, but rather, suggested that OCSE do so to insure compliance with Federal regulations and law. HHS does not agree that OCSE should audit States and local agency staff, and maintain that ensuring sufficient staff is essentially the responsibility of the States child support agencies.

In summary, our work suggests that there continues to be problems associated with child support enforcement, regardless of whether absent parents reside in or outside the States. Provisions in the 1984 Child Support Enforcement Amendments helped improve the program, but more needs to be done. Proposed welfare reform legislation, such as H.R. 1720, if enacted, should result in additional improvements. However, vigilant monitoring and oversight of the program will continue to be needed at the Federal and State levels to ensure program effectiveness and identify ways to improve program implementation. Through our future work, we will continue our efforts to identify ways to improve the program.

This concludes my statement. I will be happy to answer any questions you may have.

[The statement of Mr. Delfico follows:]

## STATEMENT OF JOSEPH F. DELFICO, SENIOR ASSOCIATE DIRECTOR, HUMAN RESOURCES DIVISION, U.S. GENERAL ACCOUNTING OFFICE

Mr. Chairman and Members of the Subcommittee:

We are pleased to appear today to discuss our work on the child support enforcement program. Since the program was established in 1975, GAO has issued a number of reports and testified on various aspects of the program.[1] Most recently we issued a report focusing on state child support agencies' efforts to determine paternity and obtain support orders for children receiving Aid to Families With Dependent Children (AFDC). Currently, we are reviewing interstate child support enforcement for this Subcommittee. My testimony will focus on issues addressed in these two efforts.

The child support program was created to meet both financial and social goals--to reduce welfare costs and to promote family responsibility by deterring abandonment of children. Despite significant accomplishments since the program's inception, our work and the work of others indicate that progress towards achieving these goals has been hindered, in part because of problems in program management.

A possible effect of these problems may be lower average monthly child support payments for interstate cases. Based on data reported by the Department of Health and Human Services' (HHS') Office of Child Support Enforcement (OCSE) to the Congress, we estimate that, for cases with collections in fiscal year 1986, the average monthly collection received by states for interstate cases was lower by about $66, or 37 percent, than the average monthly collection for all cases. This may be a function of the uniqueness of interstate cases, the reliability of the caseload and collection data, the processes used in various states, or other factors. During our continuing work for this Subcommittee we plan to examine the reasons for this disparity.

### BACKGROUND

Noting that little progress has been made regarding the problems of interstate child support enforcement despite more than a quarter of a century of grappling with the issue through a host of commissions, studies, and other initiatives, this Subcommittee asked GAO to review the current status of the program and provide information in two stages. During the first stage we have been focusing on defining the nature and extent of problems associated with interstate child support. In the second stage of our work we intend to further define the problems and then focus on identifying potential improvements to facilitate enforcement.

To date, we have (1) collected and analyzed program data and officials' views on interstate problems from the 54 states' and jurisdictions' child support agencies, primarily through a mail questionnaire, (2) collected and analyzed program data from OCSE, (3) obtained views of OCSE officials and representatives of 10 national organizations with interest in child support, and (4) reviewed and synthesized studies of interstate enforcement.

In April 1987 we reported on the results of our study of paternity and support orders.[2] We attempted to determine whether states' efforts to carry out these two activities were adequate and whether data compiled on these activities were sufficient and reliable for program oversight. To make our assessment we analyzed 806 randomly selected cases at 8 local child support agencies in 4 states.

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[1] A list of GAO reports and testimony on child support is attached.

[2] CHILD SUPPORT: Need to Improve Efforts to Identify Fathers and Obtain Support Orders (GAO/HRD-87-37, April 30, 1987).

## OBSERVATIONS

Of the many aspects of program design and management, our recent work focused on identifying problems in establishing paternity and support orders and in processing interstate cases. The problems indicated by our work include federal and state agencies:

-- Inability to treat cases consistently and in a timely manner due to inadequate case management.

-- Inability to provide adequate program oversight due to unreliable program data.

-- Inability to properly assess program effectivness due to the lack of adequate tools to measure performance.

In addition, in defining interstate problems we have identified barriers, such as lack of automation of state programs, which have affected enforcement of interstate cases.

### Need for Better Case Management

Our work indicates states lack adequate case tracking and monitoring systems. In our April 1987 report we concluded that insufficient case tracking and monitoring contributed to some cases not being opened by states' child support agencies when referred by states' AFDC agencies; some cases being prematurely closed; and some cases going unattended for 6 months or longer. As a result, paternity was not established and/or support orders were not obtained when needed in 42 percent of the AFDC cases we sampled.

We recommended that HHS require OCSE, as part of its oversight responsibility, to provide guidance and assist states in developing case tracking and monitoring systems for local agencies to ensure that cases do not go unattended and that efforts to determine paternity and obtain support orders are adequate. Commenting on our report, HHS said that OCSE has provided funds and guidance to states to implement automated systems which should facilitate case tracking. On February 9, 1988, OCSE reported to the HHS Inspector General that regulations that include case closure criteria and revised audit procedures to prevent premature closure are scheduled for publication in fiscal year 1988. This action, HHS said, should help encourage states to track cases.

Our current work also indicates a need for better tracking and monitoring of interstate cases. Not all cases sent from one state to another go through state child support agencies, and there is no central location for tracking interstate cases in over one-third of the states. OCSE has published proposed regulations which it believes will improve states' ability to track interstate cases by requiring incoming child support cases from other states to be processed through a state-level central registry.

### Need for Better Program Information

In our April 1987 report we concluded that program data OCSE obtained from the states and reported to the Congress did not provide an accurate and complete picture of program operations to enable the Congress or others to properly assess program performance. HHS noted in its comments on our report that corrective action was underway in several states to eliminate data problems identified by OCSE auditors.

Nonetheless, our ongoing work also raises questions about the reliability and usefulness of available caseload and collection data. OCSE officials told us they have reservations about the reliability of the data reported by states. In its most recent report to the Congress for fiscal year 1986, OCSE indicated that data reported by states were incomplete and inconsistent. Similarly, 4 state child support agencies responding to our questionnaire told us their interstate caseload data were not complete because all cases are not tracked through these agencies. Nine states told us their interstate caseload data were not reliable, and 12 other states did not provide interstate caseload data for a variety of reasons. For example, one state said providing such data would require surveying 92 counties.

### Need for Performance Standards

The Social Security Act requires OCSE to establish standards to assure that state child support programs are effective. Our work has shown that while federal standards are used to assess states' collection performance, there are no standards (such as case processing time) to assess how effectively agencies locate parents, determine paternity, or obtain and enforce support orders. In response to our questionnaire, states reported that when they refer cases to other states, case processing takes almost 6 months longer, on average, than for all cases in general. Without case processing time standards, OCSE's ability to assess the effectiveness of states' performance of these activities is limited.

We recommended in our April 1987 report that HHS direct OCSE to develop performance standards for establishing paternity and obtaining support orders. HHS advised us that OCSE plans to develop performance standards for paternity establishment. HHS also said OCSE regularly assesses the effectiveness of agencies' paternity establishment and support order development through comprehensive performance-based audits performed at least triennially, as required by the 1984 Child Support Enforcement Amendments. However, as discussed in our report, compliance with the audit requirements of the amendments will not measure effectiveness of activities other than collections, and we continue to believe performance standards for such other activities as paternity determinations are needed.

### Barriers to Interstate Child Support Collection

As part of our ongoing work we asked state child support agencies and 10 national organizations interested in child support to identify barriers to interstate child support collections. Among the barriers most frequently identified as greatly affecting states' ability to collect interstate child support payments were lack of automation within states, different policies and procedures among states, and lack of staff.

#### Automation

Fewer than half the states have automated their case tracking systems for use in all child support enforcement activities, from locating parents to making collections. An analysis of states' questionnaire responses indicated that states with automated systems generally process cases faster and more effectively than states that are not automated.

#### Different state policies and procedures

States use various practices and procedures to perform such child support activities as establishing paternity, obtaining support orders, and collecting support. The practices and procedures used vary depending on legal options available and case circumstances. For example, many states have "long-arm" laws, through which one state can pursue child support enforcement in another state without referring the case to the other state. However, the provisions and conditions under which such laws can be used vary. In addition, all states have adopted some form of the Uniform Reciprocal Enforcement of Support Act, which is model legislation through which one state can pursue child support enforcement in another state through reciprocity. However, there are several versions of this act, and states' procedures for pursuing child support enforcement vary depending upon which version of the law was adopted by the state.

During our continuing work we plan to visit selected states and local child support offices to determine what practices and procedures are used to pursue child support. Our objective will be to identify ways to simplify procedures and eliminate barriers to interstate collections.

Adequate Staffing

During our paternity and support orders work, 5 of the 8 local child support agencies we visited said they had insufficient staff to perform certain tasks required by federal regulations. We did not evaluate the adequacy of the agencies' staff, but rather suggested that OCSE do so to ensure compliance with federal regulations and law. HHS does not agree that OCSE should audit state and local agency staff, and maintains that ensuring sufficient staff is essentially the responsibility of the state child support agency.

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In summary, our work suggests that there continues to be problems associated with child support enforcement, regardless of whether absent parents reside in or outside the state. Provisions in the 1984 Child Support Enforcement Amendments helped improve the program, but more needs to be done. Proposed welfare reform legislation, such as H.R. 1720, if enacted, should result in additional improvements. However, vigilant monitoring and oversight of the program will continue to be needed at the federal and state levels to ensure program effectiveness and identify ways to improve program implementation. Through our future work, we will continue our efforts to identify ways to improve the program.

This concludes my statement. We would be happy to answer any questions you or other Subcommittee members might have.

ATTACHMENT I

## GAO REPORTS AND TESTIMONY RELATED TO CHILD SUPPORT ENFORCEMENT

CHILD SUPPORT: Need to Improve Efforts to Identify Fathers and Obtain Support Orders (GAO/HRD-87-37, Apr. 30, 1987)

Letter report to the Administrator of the Family Support Administration, [Observations on How the Office of Child Support Enforcement Could Better Help States Efficiently Automate Their Child Support Enforcement Programs] (GAO/IMTEC Letter B-221220, Feb. 20, 1987)

CHILD SUPPORT: States' Progress in Implementing the 1984 Amendments (GAO/HRD-87-11, Oct. 3, 1986)

CHILD SUPPORT: States' Implementation of the 1984 Child Support Enforcement Amendments (GAO/HRD-86-40BR, Dec. 24, 1985)

U.S. CHILD SUPPORT: Needed Efforts Underway To Increase Collections From Absent Parents (GAO/HRD-85-5, Oct. 30, 1984)

Child Support Collection Efforts For Non-AFDC Families (GAO/HRD-85-3, Oct. 30, 1984)

Examination of Child Support Collection Activities (Testimony before the Senate Finance Committee by Joseph F. Delfico, HRD - Jan. 24, 1984)

Wisconsin's Aid to Families With Dependent Children and Child Support Enforcement Programs Could Be Improved (HRD-78-130, June 22, 1978)

New Child Support Legislation--Its Potential Impact And How To Improve It (MWD-76-63, Apr. 5, 1976)

Acting Chairman **Downey**. Mr. Harris, why has it taken the States so long to get programs in place. Other than the fact that they have had to implement laws, and that takes some time, what examples, and what lessons can we learn, so that if we send the States additional guidelines or requirements it will not take them 4 years or 3 years to do things that we want done?

Mr. **Harris**. Mr. Downey, I think first of all, you have to go back to the effective date in the 1984 amendments which allowed States an extended period of time to come into compliance, depending on when their State legislatures met. In fact many States enacted the legislation before the time limit in which they had to act.

Another aspect is when you look at the deficiencies that we found in our audits for fiscal year 1984 and 1985, and that we are finding, indeed, in subsequent audits, these are provisions that were authorized in 1975—paternity establishment, for example, and location services. So it is a combination of things.

It is the need to enact new State legislation related to the 1984 amendments and the Bradley amendment, which came in 1986, but it is also failure to effectively implement what has always been part of the Federal child support enforcement program.

Acting Chairman **Downey**. Your statement gives us some sense that automation makes sense. How many of the States have implemented automated data processing?

Mr. **Harris**. If I recall correctly, about 33 States have automation projects underway at this time. With enhanced Federal funding, 14 of those are quite far advanced in the development process.

What you find, looking across the country, is many States, or counties within States, have some form of automation. They tended to automate early on. They have some elements of the program automated, particularly the collection function, the financial distribution.

What tends to be least automated is the point that both GAO and I have spoken about—the case tracking and monitoring. That tends to be the weakest area in terms of automation.

Acting Chairman **Downey**. Right. Why is that?

Mr. **Harris**. I think in some respects because it is the most complex to automate, and it is a reflection of the organization of the child support enforcement program.

What you have in child support enforcement is a variety of different organizations involved at the State level, and more importantly, at the local level, all of whom perform a portion of the overall job. Many are headed by independently elected officials, and it is a matter of melding that all into an overall system and getting people to work together.

The biggest barrier to automation has not been a technological barrier. We are not talking about exotic kinds of automated systems. It has been getting all of the parties together and agreeing on what is the nature of the system they want, and a system that will meet all of their respective needs.

Acting Chairman **Downey**. How many of the States are receiving the 90-percent Federal match for developing automated systems?

Mr. **Harris**. As I say, I believe it is 33 at this point, but I will supply further material for the record on that point.

[The following was subsequently received:]

OCSE has approved automation plans for 36 States, with 90 percent Federal funding. These 36 States are in different phases of the automation process—14 States are implementing their automation system, 9 States are transferring systems from other States or developing their own system, and 13 States are in the process of planning their automation projects.

Acting Chairman DOWNEY. I know that people do not like to do this, but it is easier for us, in times of Olympic challenges, to think in terms of gold and silver and bronze.

If we were going to award a gold medal to States for doing a good job in following the 1984 enforcement, who would you give a gold medal to? Who would be the recipients?

Mr. HARRIS. I think that States like Iowa, Indiana, and New Jersey are leaders in terms of the effectiveness of their child support programs, the efficiency with which they are operated, and the attention that they paid to implementation of the 1984 Amendments.

I would also say that all of the States which are doing a good job also recognize that they have a much longer way to go, and that is one of the characteristics, in fact, of the better performing States.

Acting Chairman DOWNEY. Who would receive the raspberry awards? Who is just not doing a good job?

Mr. HARRIS. The jurisdiction that we are presently sitting in would certainly be on that list, the District of Columbia. Although, I must say that certainly, quite recently, from the Mayor on down, there has been an indication that the District is really beginning to move to effectively implement the program.

Acting Chairman DOWNEY. All right. What about the States?

Mr. HARRIS. Arizona, West Virginia, and New York have a long way to go, and some others.

Acting Chairman DOWNEY. In the case of my own State, is that a problem because of overlapping jurisdiction, size, number of the caseload? What, in particular?

Mr. HARRIS. Caseload size may be part of it.

Acting Chairman DOWNEY. I'm going to be seeing my Governor in an hour, so, maybe I can whisper in his ear that I would like the program improved. What would I say to him?

Mr. HARRIS. In the jurisdictions which tend to do best in this program, and it is true at the county level as well as at the State level, there is a positive attitude and a commitment from the top, and that commitment pervades the whole organization.

That commitment is then reflected in the management of the organization. I think in speaking to your Governor, it really is a matter of his active and continuing personal interest in the program.

This is a relatively small program which tends to get buried in a much larger human services agency, and it is really a matter of commitment from the highest levels of Government that is reflected in program performance.

Acting Chairman DOWNEY. Let me ask you something, and Mr. Delfico, if you want to get in on any of this, please do, and then I want to stop my questioning because there are other members of the subcommittee who want to ask questions.

From these interstate demonstration projects, what have we learned in terms of the 1984 amendments? As I understand it, some of them have been funded adequately.

Can you give us some lessons that we have learned?

Mr. **Harris**. Yes. We have basically funded two types of projects, Mr. Downey. We have funded regional clearinghouses, and we have learned enough there, in terms of the benefits of the location services and case-tracking and monitoring, that we are moving to build a national network that will perform the same kinds of functions.

The other types of project that we have funded were really management improvement projects that were designed to identify problems and come up with State-specific solutions The kinds of problems we uncovered were exactly the kinds of problems that Mr. Delfico testified to.

We think we learned enough in those projects where States could then pick up with the regular 68-percent matching money, in terms of implementing those improvements.

Acting Chairman **Downey**. Mr. Delfico?

Mr. **Delfico**. I was just going to mention that we are just getting into the demo projects right now. We will probably have a full report for you when we complete our work, but the most encouraging part of it, from our view anyhow, is that there are four regional automated networks that are a part of that demonstration project, and as I pointed out, case processing and data bases are lacking in this program.

If these four regional automated networks that are now being demonstrated, using different approaches, can be developed at a national level, I think it is a great step forward as far as program management is concerned.

Acting Chairman **Downey**. Let me ask you, hypothetically, about the use of Federal courts for the purpose of enforcement of interstate cases.

Would that either be appropriate, or feasible? I do not know the constitutional questions that we would get into. Mr. Delfico mentioned—I do not know if you did, Mr. Harris—about the long-arm statutes being available in some States.

What if we made this a Federal right-of-action?

Mr. **Harris**. There is a provision in the child support statute, Mr. Downey, which dates back to 1975, which does provide access to the U.S. district courts.

I am only aware of one case that has actually been brought to the U.S. district court, and it was successfully terminated.

By and large, the Federal courts have been very reluctant to get involved in individual child support cases. We are talking about a massive workload. Overall, in the child support system, the States report 10.5 million cases for fiscal year 1987.

Acting Chairman **Downey**. But it seems from your testimony, and also that of Mr. Delfico's, that some States have appropriate laws, have followed the Uniform Reciprocal Enforcement of Support Act, and are still doing poorly.

Mr. **Harris**. Yes.

Acting Chairman **Downey**. It might need some changing. But if Congress were to express, as I suspect, their strong interest, bipartisan interest, in seeing these cases moved forward, that it might be worth us looking and talking to members of the Judiciary Committee about that.

Let me ask you one final question. In terms of difficulty, which is more difficult: establishing an order across State lines, or enforcing and collecting one?

Mr. **Harris**. I think establishment, clearly. The interstate paternity case has really tended to be the rarity.

Mr. **Delfico**. Our experience is exactly the same. I think it takes roughly—according to our responses from the States—anywhere from 7 to 8 months to establish paternity, and maybe two or three months to make collections. So we are talking about a factor of four difference in the effort.

Acting Chairman **Downey**. Let me ask you one question about URESA. How many of the States have enacted it, do we know?

Mr. **Harris**. All States.

Acting Chairman **Downey**. All States have enacted it?

Mr. **Harris**. Yes. The problem, though, Mr. Downey, is everyone has a URESA statute, but it is a model law. It is promulgated by the Commission on Uniform State Laws.

Acting Chairman **Downey**. Right.

Mr. **Harris**. And not every State has adopted all of the provisions of the model law, nor has every State adopted the same version of URESA. There are two versions: one from 1950 and one from 1968, both of which predate the Federal child support enforcement program.

Acting Chairman **Downey**. Well, given that reality it would make some sense, maybe, for us to update it substantially, and have the States pass it again, or do something that would improve—I mean, 1950 and 1968. There have been some dramatic changes since that time.

Mr. **Harris**. Yes, and in fact the final interstate regulations that we published yesterday really clarify the responsibilities of both States in interstate actions. One of the difficulties today is that States have not been using all of the remedies available.

There are remedies authorized in the 1984 amendments which are outside URESA, which States have not been using, and which would be very effective.

Acting Chairman **Downey**. Thank you, gentlemen.

Mr. **Brown**. Thank you, Mr. Chairman.

Mr. Harris, you gave some numbers that indicated promising signs of progress in collections. A couple of questions.

You have given us the amount of money collected, but what portion of total support called for by all orders was collected in 1984 and what portion was collected in 1987?

Mr. **Harris**. I can supply that for the record, Mr. Brown. I do not have it, at hand.

[The following was subsequently received:]

States were not required to collect and provide this information until fiscal year 1986. In fiscal year 1986, out of the total (AFDC and non-AFDC) IV-D caseload of 9,723,890 cases, States reported collections on 1,525,551 cases, or a 15.7 percent rate. In fiscal year 1987, out of a total reported caseload of 10,580,220, States reported collections on 1,730,704, or a 16.4 percent rate.

Mr. HARRIS. Let me give you one other measure, and that is basically the amount that was due, as reported by the States, for fiscal year 1987 versus the amount that was collected.

Those States which reported it collected about 23 percent of the amount due. Better than $14 billion was due for 1987, and the States collected only about a quarter of that.

Mr. BROWN. Offhand, that sounds very dismal. Is it your view that most of this money is collectable?

Mr. HARRIS. Yes. I would certainly agree with the characterization that it is dismal. While there has been some improvement in performance, I think the figures also indicate that we have a ways to go in terms of the collection potential in the program.

Clearly, we are never going to collect all of it, but we can certainly do a lot better than 23 percent, or the levels of collection that we have today.

Mr. BROWN. Is the problem that the support orders are too large for the resources available to noncustodian parents, or is the problem simply refusal to pay?

Mr. HARRIS. It is a variety of problems. In part you get back to the issue of commitment and management within the agencies. In many cases it is really that we are not doing as effective a management job as we could. There is poor case tracking and monitoring. There is poor use of available enforcement techniques. The process flow within the agency is poor. States have adopted legislation implementing the 1984 amendments but they have very complex legislation. They could have simplified the process to a greater degree than they have. It is lack of training, it is lack of procedures.

Clearly, there are some kinds of child support cases that are always going to be difficult. The person who is continually moving from job to job, and changing their identity; the self-employed person who is concealing assets—those are always going to be difficult cases to deal with. But I think what is important is that these are a small proportion, probably, of the total cases that we are dealing with. If you can get the bulk of the cases into payment status, you can then concentrate your resources on the truly difficult cases.

We do not have that situation today. We really have cases which should be in collection status, but are not, It is not a matter of the individual is deliberately hiding, it is a matter of the child support agency that has not done the job that it should be doing, for a variety of reasons.

Mr. BROWN. Other than doing a better job of using our existing tools, are there additional collection procedures that you think may be helpful here?

Mr. HARRIS. I think the immediate wage withholding, which is the bill passed by the House, and was a part of a number of bills, will be an aid. I think even more importantly, the provision on mandatory support guidelines is very important.

Child support enforcement is really a dual problem. It is one of establishing and enforcing the support orders, and then the amount of the order, and I think the general feeling today is that orders are set too low, initially, and they are very infrequently reviewed for changes in circumstance.

So that you really have to deal with both aspects of the problem.

Mr. BROWN. One last question. To what extent do States involve private collection procedures and to what extent would that be helpful?

Mr. HARRIS. I think it would be useful. We have certainly encouraged States to use credit bureaus, collection agencies, private-sector resources, in general. Some do. Nebraska, for example, has a very promising project underway with credit bureaus. A number of other States have begun working with credit bureaus to basically impair the credit rating of the obligor, which proves very helpful in collecting child support.

A number of other things can be done. We have encouraged agencies, and there is a project underway in Indianapolis, to use the banking industry. Banks perform collection functions, and what Marion County has done is contract with a local bank to handle the billing and up-front collection functions. The child support agency then focuses on those aspects of the program which only it can do.

I think there is considerable potential in this program to make better use of private sector resources.

Acting Chairman DOWNEY. Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman.

Mr. Harris, periodically, we hear complaints about the non-AFDC cases, which claim that most people do not know that these type of services are available in the State. What kinds of things do you do to publicize the services available.

Mr. HARRIS. Yes, Mrs. Kennelly. We have tried to do things along those lines. We did, at the time of enactment of the 1984 amendments, a series of public service announcements which were widely shown.

We have produced a handbook on child support enforcement and have distributed well over half a million copies nationally, both directly and through a variety of organizations.

One of the requirements of the 1984 amendments is for States to publicize the availability of services. I think every State has done something at this point in time. Clearly, the degree to which States have publicized the availability of services has varied widely. Some have been very aggressive. Others have done the absolute minimum.

Mrs. KENNELLY. Let me take this further, then. Many of the things that you both said are not being done, like management of caseloads. Are you able to provide technical assistance to the States, to see if they can upgrade their services, and advise them how to better handle their cases?

Mr. HARRIS. Yes. We have tried to provide technical assistance in a variety of ways, both directly by Office of Child Support Enforcement staff, and through contractors, so that technical assistance and training assistance are available. We run extensive programs to train State staff, but basically a train-the-trainer sort of approach.

But the basic responsibility is with the State child support agency. The focus of accountability and stewardship in this program is the designated State child support agency, and they really need to play the leadership role in terms of implementing the 1984 amendments and carrying out the program in general.

Mrs. KENNELLY. So it really would seem a good deal of the problem is a lack of commitment on the part of the agencies, or is it lack of commitment on the part of, say, the Governors to encourage those appointed, or placed in positions of authority in this area?

Where do we drop off? We passed the 1984 amendments, you passed corresponding regulations, and yet we see this dismal record of compliance. What is the weak link?

Mr. HARRIS. I think it is more the latter area you mentioned than the former. One of the strengths of the child support program is really the dedication of people working in this field.

Many people who have had child support problems themselves, or whose family has had child support problems, work in this field and are very interested in doing a good job. I think the commitment problem is really at a higher level in many cases.

Again, we are talking about a program which is organizationally fragmented, which is dependent for resources like data-processing support and assistance in public affairs or public relations, on entities outside the child support agency. It involves interacting with all three branches of Government, and it really is a matter of strong leadership from elected officials.

Mrs. KENNELLY. I remember that we had a lengthy discussion on whether to have the 90-percent match for automation, and how it is decided that lack of automation is a part of the problem. So our even giving 90 percent does not seem to encourage as much as we had hoped it would.

Mr. HARRIS. That is true. Even though the 90-percent money has been available since 1981, we still have States which have not submitted proposals to use the 90-percent money.

And again, it gets back to basically turf questions. It is a matter of getting everybody together and agreeing on a statewide plan.

Mrs. KENNELLY. I was a secretary of State. I know exactly what you mean, yes. And it is all tied up into the intricacies of the State itself.

Mr. HARRIS. Yes.

Mrs. KENNELLY. One last question. When you gave us these figures on the 20-percent increase in 1986, the $4 billion—is that the handful of good States that we always see which complying and carrying out this program, giving us that improvement of collection figures, or is it across the board?

Mr. HARRIS. It is not across the board, but I think that the 1984 amendments clearly have had an effect in terms of non-AFDC services. There has been a much more rapid increase in nonwelfare collections than in AFDC collections.

I think we are seeing a tremendous broadening of the non-AFDC program. Prior to the 1984 amendments, literally a handful of States accounted for almost two-thirds of non-AFDC collections.

Mrs. KENNELLY. But that is improving?

Mr. HARRIS. Yes, it has. The open question is, how much of that is a real increase in child support collections and child support services, versus a folding into this program of collections which were already going through governmental agencies?

In other words, in a number of States, child support in non-AFDC cases, particularly divorce situations, may have been paid through a clerk of the court, for example, but that was not under title IV-D of the Social Security Act. The State may now, by State law, for example, be calling those IV-D non-AFDC collections.

Mrs. **Kennelly**. One last question. Do you think that company that you have hired to do this study will need the two years, and we will have to wait 2 years for the results?

Mr. **Harris**. No. We have tried to structure the evaluation contract so that we would be getting reports on specific segments of the project much earlier.

I do not think anyone is going to sit still for 2 years for an evaluation report.

Mrs. **Kennelly**. Thank you. Thank you, Mr. Chairman.

Acting Chairman **Downey**. Mr. Pease.

Mr. **Pease**. Thank you, Mr. Chairman, and thank you, gentlemen, for your testimony.

Like Mr. Downey, I will be meeting with my Governor later today also. I wonder if you could tell me what your experience is in relation to my State of Ohio, so that I might whisper in his ear.

Mr. **Harris**. Ohio—and I can get you the specifics—failed the audit for fiscal year 1985. They failed in paternity establishment. They failed in several other areas as well. In some performance parameters, Ohio does very well. In terms of the efficiency of their collections, the percentage of AFDC recovered through child support collections, it has been very uneven.

The problem in many respects has been that the State agency has been relatively weak; individual counties have varied considerably in their child support program. The Ohio legislature enacted legislation in its last session—it was effective I believe the beginning of this year—which strengthens the organizational focus of the program considerably.

The counties, for example, had to designate a single child support agency for each county, and the counties vary, in terms of who they designated. Ohio has gone to immediate wage withholding, but I think many of the problems in Ohio are really management problems. As I say, it is really a matter of strong leadership from the State in terms of the overall program.

Within the State, I am sure some of the major urban counties are the ones where there have been problems.

Mr. **Pease**. I remember from my service a decade or so ago in the State legislature that there is more power at the county level than one would expect. The State government level is relatively weak.

Is that a common arrangement in other States, or is it fairly unusual?

Mr. **Harris**. No, it is a very mixed picture, Mr. Pease. It really varies significantly from State to State. There are certainly other States where the real power in the program is at the county level rather than at the State level.

And that, again, accounts for the problems in terms of delays in automation. I mean, information is power, and in some cases counties would rather not see a strong State agency.

Mr. **Pease**. Just one other question. As we talk about strengthening this program, has it been cost-effective? It costs a certain amount of money to do these things, but presumably, as we establish paternity and collect more money, we save money on ADC.

Can you tell me what the tradeoff is there?

Mr. **Harris**. Yes. Overall, in 1987, we collected $3.68 per dollar of administrative cost, the collections-to-cost ratio. It varies considerably between AFDC and non-AFDC. It is $1.28 in collections per dollar of administrative cost for AFDC. It is $2.40 per dollar of administrative cost for non-AFDC.

In terms of the payoff to the taxpayer, the program saves money. There is a direct savings to the taxpayer in 1987 of about $26 million, and it is split in a very distinct way.

State and local government made a profit of about $350 million and the Federal Government lost $325 million, and that is really a function of the financial structure of this program.

The program is very generously funded. It was designed that way as an inducement to encourage States and counties to develop child support programs. One of the effects of that is it encourages people to collect child support because they can make money.

By the same token, in some respects, it is so easy to make money that you can do a fairly mediocre job and still make money for your jurisdiction.

Mr. **Pease**. Well, AFDC is a program funded by the Federal Government and by the States, and I guess what you are telling me is that the savings in AFDC are split between the two, but the cost of administration is borne more heavily by the Federal Government than by the States. Is that an accurate summary?

Mr. **Harris**. Yes. The AFDC collections, after payment of the $50 disregard, are split between the Federal and State Governments in the same fashion as the AFDC grants.

The Federal Government, though, then pays 100 percent of incentive payments to the States, and 68 percent of ongoing administrative costs.

The States earned revenue from child support enforcement of about $663 million in fiscal year 1987. That $350 million figure is net of their share of expenses.

Mr. **Pease**. We have been told that as we look toward next year, and the year after that, and the year after that, the Federal budget deficits are going to continue, and it will make it very difficult for us to enact a new program.

I think we are all going to be under pressure as we design programs, either new ones or strengthening of old ones, to make them revenue-neutral.

Can you suggest a way that we could further strengthen these child support enforcement laws in a way that would be revenue-neutral in terms of the Federal Government?

Mr. **Harris**. Under the existing legislative structure, the way the Federal Government benefits most is by increasing the effectiveness and the efficiency of the program.

The more effective and efficient the program is, the better off the Federal Government fares. It takes a significant increase in effectiveness and efficiency for the Federal Government to break even, again because of the way the present law is structured.

Mr. **Pease**. Could we change the mix, somehow or other, so that the Federal Government gets a little more net revenue and the States a little less net revenue?

Mr. **Harris**. It would require a statutory change. And there is a tradeoff in terms of to what extent is it valid today that State and local governments have to have a significant direct financial return from this program in order to run it.

That clearly is a strong selling point for this program, not only that there is a large financial benefit, but that there are no strings attached to the money. State and local governments can use their share of the AFDC collections and the Federal incentive payments for any purpose that they wish.

Mr. **Pease**. Thank you very much.

Acting Chairman **Downey**. Mr. Andrews.

Mr. **Andrews**. Thank you, Mr. Chairman.

Just to sum up, I'd like to ask both of you to try to make a little policy here.

The implementation of the amendments really, I think, concerns all of us on the committee in the inconsistencies between States which are very curious to me. For example, in 1986, Michigan, which has about half the population of New York State, located several thousand more absent parents than New York was able to do.

Alabama, in 1986, collected 21 percent of its AFDC grants through child support enforcement, while California collected only 6 percent, 6 percent. I mean that's just outrageous.

In terms of thinking about policy specifics, give us your thoughts about what we could do to change these numbers, to make them more consistent. And you've touched on some—in response to Mrs. Kennelly's questions—but if you can, for just a moment, enumerate for us four or five, six or seven specific suggestions that you think the Congress should do.

Mr. **Delfico**. That's a tall order. But I think what you have to start off with is the fact that with a Federal-State program like this, you're going to have disparities in performance among States. Every Federal-State program we've audited has a similar problem.

The other issue you have to deal with is that the States—historically anyhow—want to control family law. And the more we talk about standardizing the program, the more we tend to think about federalizing it. And you've really got a tough issue there to deal with.

The third issue that would concern us from our standpoint is that you'd probably have to develop better oversight at the Federal level to reduce performance disparities. Oversight at the Federal level again is a function of the philosophy of the particular administration in power, whether they want to get involved in State administered programs, or whether they want to back off and let the States run the programs themselves.

So these are three amorphous areas that I think you'd have to really deal with before you develop policy in that area.

A fourth one is I'm not sure how far you can go in increasing collections from the population that now makes up the absent parent population, although I agree with Mr. Harris there is more that can be done. If you collect 25 percent of what's owed today, moreover, I don't know if you necessarily can collect 50 percent by changing the program's processes and procedures. The demographics are such that today, the kind of person who owes child support may not be as able to pay it. If you look back 10 years at the ages and types of persons that were in the child support program, or owed child support, I think you may find ability-to-pay differences compared to today's absent parents. Those factors also would have to be considered, I think, before you develop policy in this area.

Mr. **Andrews**. Let me just make a point. One of the things that is also pretty stark is the different sizes of staffs, caseloads vis-a-vis number of staff people.

I used to work in the district attorney's office in Harris County in Houston, a big urban area, and no one that worked in the DA's office wanted to deal with child support. That was the bottom runner. You were the worst in the room if you walked into the courtroom with stacks of files to try to enforce child support cases.

And our policies in a big urban area and in fast growing areas like Houston, suffered greatly because of that. States like Utah have a much greater ratio, 130 cases per employee. For South Carolina, 900 cases per case worker. They can't do the job if they have 900 to 1,000 cases to look after.

Should we look at setting some kind of employment standards vis-a-vis incentives to encourage States like South Carolina and Texas—incidentally, we've gotten better in Texas—but encourage those States to increase that ratio?

Mr. **Delfico**. We made a point in both our reports, the one that we'll be issuing and the earlier one that standards are needed at State and local levels for case processing, caseloads, things like that.

Mr. **Andrews**. Well, how do you enforce those standards?

Mr. **Delfico**. I think the States will have to enforce them at program operating level. We haven't fully thought through the problem yet, particularly with the interstate issue. But there is quite a disparity in case processing times, which may be a function of such factors as caseloads or the court system.

But without some standards, even short of fully engineered standards, you don't know who is performing well, who isn't, and why. Concurrently it may take 8 months for Arizona to process paternity and only 2 months for New York, but I couldn't tell you exactly why. Standards may help us identify, for example, that they're overloaded in Arizona, or that New York simply has a better, more efficient process.

Mr. **Harris**. Mr. Andrews, if I may comment. I think we're certainly in agreement with GAO in terms of the whole area of performance standards. In fact, we now have in the clearance process performance standards for child support operations to augment the kinds of things that I described in my opening statement.

You've also touched upon, based on your own experiences in the district attorney's office, one of the problems in this program in terms of how do you motivate the elected district attorney.

Clearly what you recount is not unique. The child support program in too many places is either the training ground or the dumping ground in the district attorney's or the State attorney's office.

Mr. **Andrews**. Well, I think you motivate them by carrots and sticks, by incentives and sanctions, and those that perform best, they get the best. And they get more assistance from the Federal Government. That gets the attention of a local district attorney that's trying to handle his budget.

I think that's what we really want to try to look at.

Those are things that we can do that are specific, and that's really what I'm asking here. I think that that's an area where our committee can go back and look to see what kind of incentives we can give where it will catch the eye of a local district attorney.

Mr. **Harris**. I think a cardinal tenet has to be, in getting back to some of the discussion with Mr. Pease, you have to relate funding to performance, not just in terms of what's being spent on the program, but what it is that you're achieving. And we are trying to do that in the audit area, for example. We are relating, increasingly imposition of the audit penalty to the nature of the performance that's being realized.

We're also trying to do a variety of things to get people's attention, the people who provide the resources at the local level. Staffing is a problem in some jurisdictions. But we also have the full-time equivalent of 29,300 State and local employees working in this program. There's been a 26-percent increase since the 1984 amendments were enacted. In other jurisdictions, they may have enough staff but they don't have procedures, their training is inadequate, or their case flow is far too complex, or management is just poor. So it's not just the question of staffing.

Mr. **Andrews**. Mr. Chairman, I have a statement for the record. I'll be happy to read it for the chairman if you'd like to hear it.

Acting Chairman **Downey**. Oh, no. We'd be happy to accept it.

Mr. **Andrews**. With the Chair's permission, I'll insert it into the record.

Acting Chairman **Downey**. I thank the gentleman.

[The statement of Mr. Andrews follows:]

### Opening Statement of Congressman Michael A. Andrews

Mr. Chairman, I am pleased that you have convened these hearings on child support enforcement. Few issues are move important to the Nation's children than this one. More than half of the children born today will live with only one parent for part of their life before they reach age 18.

In H.R. 1720, the Family Welfare Reform Act, which was passed by the House last year, we are moving toward an automatic system of child support payments. The bill requires all States to adopt immediate wage withholding laws that Texas and Massachusetts have successfully implemented. This means that all children with employed parents will have the security of a legal system that ensures regular child support payments.

Child support enforcement is our first and, perhaps, our best weapon in the battle against poverty. Three out of four welfare cases begin due to a divorce, separation, or the birth of a child out of wedlock. Our welfare system should start with the belief that both parents must bear the responsibility for raising the childern. Only if they are unable should the Government offer assistance.

These hearings will give us chance to reflect on the past and the future of child support enforcement. The 1984 amendments have made a significant improvement in child support collections. In a 2-year period, from 1984 to 1986, collections improved by 37 percent. Most of the success was in locating absent parents and establishing child support orders.

An area that has not similarly improved is paternity establishment. During the same 2-year period, paternity establishments increased by only 11 percent. This is unfortunate because identifying the father of a child is, of course, essential for support over the long run.

Paternity establishment is a more expensive child support enforcement tool. The benefits from collections do not catch up to the costs for about 3 years. I hope to learn from these hearings if our policies are far-sighted by adequately encouraging paternity establishment.

Another area of concern of mine is the financial incentives that States receive for the collection of child support. States like Texas that collect a high proportion of child support on behalf of other States are penalized because they do not receive incentives for much of their interstate collection. These states are inhibited by a cap on non-AFDC payments. In addition, this cap discourages non-AFDC collections.

We have a great deal of work to do in the area of child support enforcement, and I am looking forward to the help that the witnesses at these hearings can provide.

Acting Chairman DOWNEY. Mr. Harris, I want to talk a little bit to you about performance standards which you touched upon, because in page 5 of the GAO report, they say in the last paragraph,

> However, as discussed in our report, compliance with audit requirements of the amendments will not measure effectiveness of activities other than collections, and we continue to believe performance standards for such other activities as pertain to these determinations are needed.

And you don't disagree with that?

Mr. HARRIS. I would disagree that the audit only measures collections. We do look across the board in terms of program performance.

Let me indicate, Mr. Downey, what the audit standard was for those States that failed. It is a case action standard. It is that you take an action in at least 75 percent of your cases. We're not saying that you establish paternity in 75 percent of your cases. We're saying you took an action towards establishing paternity, and with that kind of standard, we had 19 States fail.

Mr. DELFICO. I just want to respond. The standards we're particularly concerned about are processing time standards to start with. I don't think that much has been done in that area for good reason in one aspect.

Ms. KENNELLY. Excuse me, I didn't hear.

Mr. DELFICO. Case processing time—for example, how long it takes just to establish and process paternity.

The courts are involved, which are outside the direct control of State and local agencies. But I think more can be done to look at what it takes to expeditiously process cases to the point where the courts enter the picture.

If you combine that problem with the current need for much better case tracking, you have some fundamental roadblocks to effective program operations. Those two things, I think, are just very fundamental to child support operations at the State and local levels.

Mr. HARRIS. Let me just disagree on one point. And we are in agreement in terms of the need for case processing standards. And that is inherent in the regulation that I mentioned, which is under development. We are talking about case processing standards.

But addressing the point that it's in the courts and it's not under the control of the child support agency, I think one of the problems is the States have to designate a single and separate agency at the State level which is responsible for the operation of this program. In far too many instances, that agency has not been doing its job in terms of oversight, monitoring, managing the contracts or cooperative agreements that it has with clerks of the court, district attorneys' offices, and a variety of other people. You really need the strength of that management. Whether they perform the function themselves or not is immaterial. The State IV–D agency is responsible for the operation of the child support program.

Acting Chairman DOWNEY. Mr. Harris, before you leave today, and before the end of this year, what I'd like you to do, and I'll talk to your boss and we'll write a letter to your boss about this, we want you to develop for us a set of standards, and we will grade the States. We may not be able to provide the money, but we can provide them a lot of good or bad publicity by the end of this year. We will grade States and say who's doing a good job and who isn't doing a good job. Believe me, politicians like good news and they disdain bad news, especially around election time. Bad news about this program will come as a great revelation to a Governor seeking reelection.

I can assure you that they will pay far more attention when a committee of the Congress or an agency of the Federal Government has decided who's a winner and who's a loser. We will do that this year, and we will make sure that if we have to pass a law to do it, we'll do that on the suspension calendar.

I hope we don't have to do that. If there's an understanding between our staffs of what the criteria are, we will do our own rating.

Let me say first to you, Mr. Delfico, we appreciate the work you have done, and to you, Mr. Harris, it is a privilege to hear you testify. Your grasp of this area is something that I find truly awesome. And it is a pleasure to have a person who is involved in Government to come and testify as you have.

Thank you both for coming here today.

Mr. HARRIS. Thank you, Mr. Downey.

Mr. DELFICO. Thank you.

Acting Chairman DOWNEY. The committee will next hear from another panel, the Women's Legal Defense Fund, Diane Dodson; the National Organization of Women Legal Defense and Education Fund, Sally Goldfarb; the Evergreen Legal Services, Seattle, WA, Debra Perluss; and the New York State Commission on Child Support, Judy Reichler, director.

In the order I introduced you, if we would begin first with Ms. Dodson.

## STATEMENT OF G. DIANE DODSON, SPECIAL COUNSEL FOR FAMILY LAW AND POLICY, WOMEN'S LEGAL DEFENSE FUND

Ms. DODSON. How are you? I am Diane Dodson with the Women's Legal Defense Fund. And, Congressman Downey and Mrs. Kennelly, I am delighted to be able to be here today to testify on behalf of the Women's Legal Defense Fund.

The Women's Legal Defense Fund is a tax exempt, not for profit membership organization, started in 1971 by feminist lawyers in Washington, DC to advance women's rights under the law.

The organization was an active supporter of the 1984 amendments. We have been providing technical assistance and information to States and advocacy groups since they were passed. We also work with the local child support effort in the District of Columbia, and answer several thousand telephone calls a year from this local metropolitan area from people who have individual problems. And so we hear a great deal about the nitty-gritty of the child support system here in this local area.

In addition, we have had lawyers who have worked with various kinds of court cases dealing with child support at all levels from our local trial courts to the Supreme Court. This has given us a good vantage point on the 1984 amendments. We are happy to be able to share our observations with you.

We keep coming back to three points that we think have to be covered if there is going to be full enforcement of child support and full collection: That all support orders have to be paid in full; that support awards have to be increased to a fair level, and that all custodians and minor children who wish support awards must be able to obtain them. We believe that the 1984 amendments were structured to deal with each of these, albeit not equally.

Clearly, the centerpiece was the mandates for new remedies for enforcement but, in addition, the mandate for child support guidelines was intended to deal with fair award levels and eliminating the paternity statutes of limitation and requiring that there be public education with respect to child support services were certainly designed to extend the program to new cases and see that additional cases were brought into the system and orders obtained.

Despite these amendments, we believe that the promise of these amendments has not yet been met. We do believe that almost all of the States have met and acted rather quickly to put in place the basic legal infrastructure that was needed to come into compliance with this law, and that now all but a handful of States have adopted child support guidelines by this past October. Yet we still have not seen significantly increased dollars in the hands of custodial parents and their children as a result of these orders. Nor have we seen dramatic increases in the number of families that have orders at all.

So what are the major causes of these failures as we see them so far? First, and I think this is a little bit difficult to quantify, States, in general, have failed to infuse the system with the initial investment of new resources that were necessary to permit obtaining orders in significant numbers of new cases, increasing award levels in old cases, and enforcing unpaid obligations in old cases.

As I go through a couple of these points, I will indicate the magnitude of the investment of additional resources that I think is necessary.

I think we also have to keep in mind that the States have been, in effect, asked to do this at a point when Federal funding was being cut back. There have been the Gramm-Rudman threats hanging over the States. There have been losses of Federal funding in other programs. But, in general, I don't think that States have reinvested in their child support systems all the savings they have realized, and that the level of resources that are required to expand the programs significantly have not gone in.

Second, there's been an enormous problem in automating State child support systems, which I will speak about in somewhat more detail. Some agencies have failed to develop detailed procedures needed to implement the new statutes, although they passed the statutes to begin with. We believe that many State and local agencies are understaffed and not operating with adequate performance standards. Local front-line staff often have not been trained in the new procedures.

States have failed to systematize their absent parent location procedures needed to establish new orders and enforce old ones.

Finally, an issue that is of great concern to us is that child support guidelines still do not provide high enough awards to ensure that there is an end to the disparity in living standards between custodians and children on the one hand and non-custodians on the other.

Probably the centerpiece of the 1984 amendments was the requirement that States institute income withholding in their IV-D cases after cases fell into arrears by a month. And indeed, they passed the necessary legislation to do that and have extended that legislation to cases outside the IV-D system so that there have been benefits beyond just the IV-D caseload.

It has been our impression by and large that the States have been utterly unable to institute withholding at the time they are supposed to. The concept of sending out a notice of withholding on the day the order becomes in arrears by 30 days is almost nonexistent. I can't say it's nonexistent, but in talking with many, many people in many, many States, this is a recurrent theme that we hear constantly. The delays seem to be measured in months and years and not in days. We're not talking about that it gets done 3 days later, we're talking about much later that it gets done.

We believe that one of the key reasons that this has happened is that the States have been unable to automate. There seem to have been very serious Federal problems in this area.

As you are aware, Congress provided 90 percent Federal funding for States to use in automating their child support systems. However, there have been enormous delays in getting that funding approved. We understand that there are 30 to 38 States still in this Federal approval process. They clearly have not come out the other end with automated systems. There have been delays in the Federal Government issuing guidelines for automated systems. In many other programs, the Federal Government certifies certain computer or automatic data processing systems, indicating that they were approved and that States can simply buy them off the shelf, if you will, and use them. There are no such certified systems in this program. Instead, the States are going through a very detailed approval process that seems to involve three, four, and even five times of coming back for approval with each step along the way. There have been enormous delays that are due in part to the method the Federal Government has used to supervise this program, as well as delays on the part of the States.

So, certainly, loosening the funding and the procedures for getting these States to automate will be key to making it possible to collect the support that is due.

Just by way of example, I would just mention that OCSE's most recent annual report indicated that in fiscal 1986, payments were collected on just under half of all orders for current support that were in their caseload. That means that even with these new systems, we're getting collections in under half the cases, or were still in fiscal 1986.

There are additional problems. Location problems continue to be great difficulties. In many cases States have failed to develop detailed new procedures for implementing the new remedies. Legislation was passed but the States have not gotten the procedures down to an operational level and have not trained local workers.

There has been a repeated theme around the country: front-line local workers either are not trained in the new procedures or have not learned or been directed which procedures to use in which kinds of situations. Getting it actually in place at the front line has remained a very serious problem.

In addition, interstate income withholding remains an enormous problem. We are under the impression that it happens almost not at all. Again I may be slightly overstating it, but its our impression that it is extremely difficult for States to get responses from other States when withholding is requested, and few States send out many requests for interstate withholding.

One State administrator told me recently that she resorts to having State legislators write pleas to elected officials in other States, begging to have income withholding instituted in particular interstate cases. That was the only method she had found effective for actually getting responses back from the other States. There is clearly not a functioning system when you have to resort to that kind of personal plea to get this in place.

I would like to turn for a minute to the question of child support award levels. All but a handful of States did adopt child support guidelines by last fall as mandated by the 1984 amendments. We believe that they will work a significant increase in child support award levels over what awards were on average. We don't know how much increase there will be over what the new awards had been for example a year before.

We also believe that uniformity in award levels for similarly situated families will be improved with these guidelines. But I would like to call your attention for a minute to some of the problems that this committee pointed out in the committee report to this legislation in 1984 and that I think we had all hoped would be addressed. I am afraid I have to tell you they have not been adequately dealt with by the guidelines that were adopted.

The committee report said that several studies had found that the economic position of noncustodial parents actually improves after divorce, while that of custodial parents and their children declined substantially in terms of what their income could provide in relation to their needs, even when child support is paid. When support obligations go unpaid, the difference in postdivorce standards of living was even more striking. Similarly, studies had found that the amount of the support obligation established by courts or administrative tribunals bear little relation to obligors' ability to pay, and generally represent a lower percentage of obligors' income, the higher that income is.

I'm sorry to report that the guidelines that have been adopted, while increasing award levels, simply have not acted to end the disparity in living standards between children and their noncustodial parents.

In addition, I think it's fair to say that under the guidelines adopted by many States, high income fathers are requested to pay far lower percentages of their income in child support than are low income fathers. In fact, interestingly enough, the model for child support guidelines developed under OCSE's contract for providing technical assistance to the State was specifically designed in a way that mandates that high income fathers would pay significantly lower percentages of their incomes in child support than low income fathers, and does not end this disparity in living standards.

Close to half the States adopted the model developed by the OCSE contract. That contract and the guidelines model developed under it specifically did not meet the standards set out by this committee. The guidelines that resulted from the model have not done so either. This remains of great concern to us, because we feel that both of those are important concerns.

I will also point out that these new award levels are not going to keep awards high enough unless an updating process is put into effect. Some sort of an updating process is very important. However, on the resource level, I would like to point out that doing an updating process in which updating was done every 2 years, and in which hearings were requested in only 10 percent of cases, would require an additional 485,000 hearings per year. Given that the current level of establishing new orders is only a little over 700,000, that is a large increase in the number of proceedings.

Similarly, if you were to have one hearing in each old case, to extend the new award levels to those cases and bring them up to date, 68 percent more would be required simply to get a new order in each old case over a 4-year period. So you are already talking about doubling the current number of hearings which would require much greater resources.

Finally, it was clear that one of Congress' concerns in 1984 was to see that child support awards were obtained in all cases in the current IV-D caseload, and to extend services in other cases.

Yet according to OCSE's most recent annual report, it appears that the number of new cases established did not even keep track with the increase in the caseload between 1984 and 1986.

The annual report indicates that the IV-D caseload grew from 7.9 million in fiscal 1984 to 9.7 million in fiscal 1986, an increase of 1.7 million cases, yet only 1.3 million new orders were established during that same time period. The States were not even able to keep up with the increase, much less make a dent in the backlog. Given that this most recent annual report indicated 9.7 million current cases, but only 2.9 million orders for current support—and I know that the statistics are somewhat different: some cases are counted twice because they are in the interstate system—nonetheless, there is an enormous backlog of cases in which no dent has been made. The caseload has increased but there has been no dent in the backlog. That may be true even though there have been additional cases heard. There is an increase in numbers, but it simply has not kept up.

I will reiterate what you have been hearing from others about what we believe to be the importance of timeframes and performance standards.

The 1984 amendments imposed, if you will, a performance standard in the expedited process requirement that States have an expedited process for handling those income withholding cases and for handling new child support cases once they were in court.

And I believe States have made a good-faith effort to meet the time lines that HHS has promulgated. There are, however, no time lines for bringing a case into the system, or for commencing that legal action in the first place. You have regulated only a very small piece of this whole time line of obtaining an order, and collecting on it.

There need to be much stricter performance standards and staffing standards on getting those cases into the IV–D system and then getting them processed, on getting location activities carried out so that a new order can be obtained in those cases. We are talking about almost doubling the level of current hearings, if over the next 4 years you are going to bring all of the existing cases without orders into the system with an order.

Again, we are talking about the necessity of a massive infusion of resources over the next several years if we are to to accomplish that purpose.

I will conclude there.

[The statement of Ms. Dodson follows:]

**Testimony of G. Diane Dodson**
**Special Counsel for Family Law and Policy**
**Women's Legal Defense Fund**
On Implementation of the Child Support Enforcement
Amendments of 1984
Before the House Committee on Ways and Means
Subcommittee on Public Assistance and Unemployment Compensation
February 23, 1988

Congresssman Downey and members of the House Subcommittee on Public Assistance and Unemployment Compensation, I appreciate the opportunity to testify before you today on behalf of the Women's Legal Defense Fund on the implementation of Child Support Enforcement Amendments of 1984 and on what further might be done to improve the collection of child support in this country.

The Women's Legal Defense Fund is a tax-exempt, not-for-profit membership organization founded in 1971 by a group of feminist lawyers in Washington, D.C. to advance women's rights under the law. WLDF supported the Child Support Enforcement Amendments of 1984. Since their passage, WLDF has conducted a national program of providing information and technical assistance to advocates seeking to improve the enforcement of child support in their communities and to secure the adoption of child support guidelines which provide fairly and adequately for the support of children and which do that in a way that ensures that parents fulfull their obligations to their children equally. Moreover, the Women's Legal Defense Fund receives and answers several thousand telephone calls each year from women in the Washington, D.C. metropolitan area with questions about domestic relations matters. A great many of these calls are from women who are experiencing difficulty in obtaining adequate support for their children. In addition, WLDF lawyers have worked extensively with local courts and organizations on child support issues, including implementation of the 1984 Amendments. These extended contacts have given WLDF an excellent vantage point for observing the implementation of the 1984 Amendments and we are happy for this opportunity to share our observations and to offer suggestions for improvements.

If the United States is to have a child support system which meets its full potential three conditions must be met;

1) all support ordered to be paid must be collected;

2) support awards must be increased to fair levels; and

3) all custodians of minor children who wish a support award must be able to obtain one.

To some extent the 1984 Amendments addressed each of these issues. To improve enforcement of child support awards the Amendments mandated a series of enforcement remedies and mechanisms which had proved effective in states already using them. Congress required states to adopt statewide child support guidelines by October 1, 1987, to increase the level and the uniformity of child support awards. To increase the number of cases with child support awards, Congress required states to extend their paternity statutes of limitations to age 18, required states to engage in public awareness campaigns to inform the public about their right to child support services, and changed incentives to encourage adjudication of additional cases.

We will comment on each of these areas in turn and identify some key problems in each area. Overall, however, it is our impression that the promises of the 1984 Amendments have not yet been met. Almost all states have passed the new legislation needed to meet the requirements of the 1984 Amendments; all but a handful of states have adopted child support guidelines. Yet we have not seen significantly increased dollars in the hands of custodial parents and their children, nor have we seen dramatic increases in the numbers of families with orders.

What are the major causes of this failure? They are several:

- States in general have failed to infuse the system with the initial investment of new resources necessary to permit obtaining orders in significant numbers of new cases, increasing award levels in old cases, and enforcing unpaid obligations in old cases; most states seem to use savings obtained from child support collections to fund AFDC benefits or to assist the state treasury rather than using those funds to improve child support services until an adequate level of service is achieved. Obviously, this may be a result of tight state budgets, state loss of federal funds, and the continued threat of further loss of federal funds.
- The process of automating state child support systems remains in a quagmire. It is, however, not possible to systematize withholding, location services, or other major components of a child support system without automating.
- Many agencies have failed to develop the detailed procedures necessary to implement the new statutes.
- State and local IV-D agencies are understaffed and are not operating under adequate performance standards; local front-line staff have often not been trained in the newly established procedures.
- States have failed to systematize the location procedures needed to establish new orders and modify and enforce old ones effectively; delays in establishing and enforcing orders only exacerbate location problems.
- Child support guidelines still do not provide for child support awards which are high enough to end the disparity in living standards between custodians and children on the one hand and non-custodians on the other.

## Income Withholding and other Mandated Enforcement Procedures

Probably the centerpiece of the Child Support Enforcement Amendments of 1984 was the requirement that states institute income withholding procedures in all IV-D cases as soon as arrearages equal support due for one month and that some form of income withholding be made available in all support cases, regardless of whether the custodian was receiving IV-D services. We are happy to report that virtually all states acted quickly to pass legislation meeting the federal income withholding requirements and the other mandatory requirements of the Amendments. While there are minor discrepancies from federal requirements, on the whole the states have established the legal infrastructure necessary for compliance. In most cases, states chose to make income withholding and the other new remedies, except interstate income withholding, available on the same basis to non-IV-D clients as to IV-D clients, so the benefits of new remedies extend beyond the IV-D caseload.

However, it appears that the large majority of states have been utterly unable to institute income withholding in a timely fashion. In a majority of states it seems that delays are to be measured in months or years, not days, if withholding is instituted at all. We all knew in 1983 and 1984 that states could not possibly commence income withholding procedures on the day a triggering arrearage occurs without automating their child support systems. Knowing this, Congress chose to provide 90 percent federal financing for automating state child support systems.

Despite the theoretical availability of this funding and its necessity for successfully implementing the 1984 Amendments, few states have been able to take advantage of it. Some 30 states have their applications for automatic data processing funds pending in the federal approval process; it is also our understanding that some states have, in effect, had applications pending at various stages of this process for up to three years. Apparently the key element of a state application for automatic data processing funds is preparation and submission of a complex document known as an Advanced Planning Document. For several years there was no written guideline available for the states from OCSE on how to prepare this document. We are told that a version recently was finalized and made available to the states, but delays in its availability seriously delayed automating.

In other federal programs, certain automatic data processing systems have gone through an approval process and have been "certified." Once a system is certified by HHS, other states may select and purchase that system with assurance that the federal government approves the system and will consent to paying for the federal share. OCSE has not yet certified any child support automatic data processing systems so there is no "off-the-shelf" option readily available to the states which they could select knowing approval is not a problem. In lieu of certifying systems, OSCE is currently requiring states to go through an elaborate and time-consuming multi-step approval process. We are told that in some cases final implementation has been disapproved after earlier steps were approved.

Apparently, some of these federal actions resulted from an appropriate desire to monitor development of costly state systems which, in the past, had sometimes not functioned correctly after they were purchased. Also, there was an understandable desire that each state not "reinvent the wheel," going through a costly and duplicative development process. Yet states have been asked not to duplicate development costs when there is no certified system available to them; the result seems to be a stalemate.

In short, it appears that the federal government itself is contributing to, if not causing, the delays in states automating their child support systems. The direct result of this failure to automate properly is failure to collect additional child support through withholding and the other new remedies. Without automation it is impossible, as a practical matter, to send out withholding notices on a timely basis; it is impossible to compile complete and accurate lists of names to be submitted for federal and state tax refunds intercepts; it is impossible to run cross-checks of social security numbers of delinquent obligors against state employment, motor vehicle, income tax and other records. Without automation it is also almost impossible to ensure accurate and timely record-keeping on payments, to disburse funds quickly to families, and to track cases through the system in a timely manner.

While the lack of automatic data processing capability is a key to understanding what has gone awry, it is not a sufficient explanation. Many states have failed to develop detailed procedures for the other new remedies, such as credit reporting and state and federal tax refund intercepts, and have not yet developed guidelines about which remedies, in addition to withholding, should be used in which cases. Frontline workers, including both legal staff and caseworkers, are often poorly trained in how to use the new procedures and in selecting the best techniques to use in each case.

Location problems continue to plague the withholding system. Particularly in older cases, the obliger must be located to be served with the notice of withholding. Even when the obligor is located, his employer, too, must be located to serve the withholding order. Without the computer capability to cross-check state employment records this task is immensely difficult.

Finally, interstate income withholding remains an enormous problem. Although most states have legislation meeting basic federal requirements, there is a widespread failure to request other states to institute interstate income withholding and widespread failure to do so when a request is made. One IV-D Administrator reported to us resorting to asking state legislators to write pleas on behalf of their constituents to elected officials in other states in order to get interstate income withholding at all. Further, while general withholding remedies are widely available in non-IV-D cases, most states have chosen not to make interstate income withholding available in non-IV-D cases. The result is that parties cannot even retain an attorney in the second state to obtain a withholding order.

We also understand that HHS is considering developing a federal interstate child support clearinghouse with significant computer capability and linkages. We believe that if there is to be so significant an investment of resources at the federal level in interstate enforcement consideration should be given to federalizing all or part of the current enforcement mechanism. This could include all interstate withholding or all withholding, for example.

The collective consequence of all of these problems is continued failure to enforce existing orders effectively. OCSE's Eleventh Annual Report to Congress indicates that in FY 1986 payments were collected on just under half of all orders for current support, and payments were collected in only about 40 percent of IV-D cases with arrearages.

## Child Support Award Levels

When Congress was considering the 1984 Amendments, several concerns motivated provisions relating to child support guidelines. These included: lack of uniformity of award levels for families in similar circumstances; low award levels; and disparity in living standards between custodians and children on the one hand and non-custodians on the other.[1]

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[1] The House Report on H.R.4325 specifically addressed the issue of child support guidelines:

> One of the major underlying support enforcement problems is the level of child support ordered to be paid. Obligees frequently believe support orders are established at unrealistically low levels and are reduced too readily when support is unpaid. Obligors, on the other hand, frequently contend that support is ordered at unrealistically high and even punitive levels. Several studies have found that the economic position of non-custodial parents actually improves after divorce while that of the custodial parent and children declines substantially in terms of what their income could provide in relation to their needs even when child support is paid. When support obligations go unpaid, the difference in post-divorce standard of living is even more striking. Similarly, studies have found that the amounts of support obligation established by courts or administrative tribunals bear little relation to obligors' ability to pay and generally represent a lower percentage of obligors' income the higher that income is. In jurisdictions where there are no objective guides for establishing child support obligations, amounts established in virtually identical cases may vary widely depending on a variety of factors including the particular judge

By this past October 1, the deadline for establishing child support guidelines, all but a handful of states had done so. Guidelines are nearing adoption in most of the remaining states. The guidelines adopted should promote uniformity of orders. Some 19 states adopted their guidelines as rebuttable presumptions; in the remaining states guidelines should promote uniformity so long as judges and other support decision-makers apply them. While we have not completed a detailed analysis of the new guidelines, we believe that, on average, the new guidelines will increase child support award levels. We know they represent a significant increase, on average, over existing awards. The guidelines adopted by many states still do not ensure fair award levels, however, and there continue to be problems with bringing old awards up to the new levels and ensuring that all awards are updated periodically.

First, awards under the guidelines adopted by most states will not serve to end the disparity in living standards between non-custodians and their children. There was no explicit mandate that they do so, although the House Report indicates concern over this point, and they do not. We also find it troubling that in many states guidelines permit high income fathers to pay a substantially lower percentage of their income in child support awards than is required of low income fathers. This is true despite the fact that the percentage decline in children's living standards may be as great in high income families as in low income families; it just does not drop to as low an absolute level. In effect, states are saying that they put a priority on absent parents paying enough to keep their children from requiring AFDC benefits, but do not put the same priority on seeing that children's standard of living is maintained in middle and higher income families. In some states advocates report that the new guidelines actually result in lower support awards than were being made previously in the higher income cases.

This approach of permitting higher income absent parents to pay a much lower percentage of income for child support is, in part, the result of the technical assistance provided by the federal Office of Child Support Enforcement through its contract with the National Center for State Courts. The guidelines model developed under that contract, the Income Shares Model, explicitly recommends lower percentage awards for higher income absent parents. No model guideline was required, and none was developed, under that contract which would end the disparities in living standards between custodial and non-custodial households.

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> setting the amount and the relative sophistication of legal advice that may be available to each spouse. [Emphasis supplied.]
>
> H.R. Rep. No. 527, 98th Cong., 1st Sess.49 (1983)
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> The Committee requests the Secretary of Health and Human Services to report on the findings of the Department's study entitled "Models for Assessing and Updating Child Support Award Levels," and the Department's recommendations based on that study and other information regarding the adoption of objective standards for equitable child support guidelines. The report should include an analysis of the advantages and disadvantages of various guidelines, formulas and approaches which could be used in establishing child support amounts, including an evaluation of the impact of such guidelines, formulas and approaches on assuring children a standard of living no lower than that of the non-custodial parent. [Emphasis supplied.]

Id. at 47.

Although the dimensions of the task are enormous, it is also critical that states update the awards in their current caseload to the new levels specified in the guidelines. Ron Haskins' study estimated that there was potential for collecting an additional approximately $15.0 billion per year in support over the amount due in existing cases (IV-D and non IV-D) if existing awards were updated to the level of the current Wisconsin or Delaware guidelines.

OCSE reports that there were approximately 2.9 million IV-D cases on which current support was due in FY 1986. If a modification proceeding was held in 80 percent of all cases that did not age out of the system in the next four years, approximately 500,000 additional legal proceedings would be required per year. This would represent an increase of approximately 68 percent over the number of current proceedings. This figure dosen't count the additional cases outside the IV-D system. The need to process this number of additional cases each year also suggests the need for significant additional resources.

New award levels alone, whether in new or old cases, will not serve to end the problem of low awards because the new, higher awards also will erode over time through the effects of inflation, the increasing age of the children covered, and unaccounted-for increases in parental income. Thus, it is essential that child support award levels either be indexed or be reviewed and updated regularly against state guidelines in order to avoid this erosion of award levels.

Pending legislation would require periodic updating of all awards. While there are enormous administrative problems with doing this, we believe it is an appropriate approach. If orders were established for the entire current IV-D caseload of 9.7 million and then updated every two years with hearings in 10 percent of the cases, an additional 485,000 hearings would be required each year. Again substantial additional resources would be required.

### Establishing Awards in Cases Without Them

Clearly one of Congress' concerns in 1984 was to see that child support awards were obtained for all cases in the current caseload and that non-AFDC IV-D services be extended to serve additional families. These concerns were reflected in the mandate that states raise the statute of limitations in paternity cases at least to age 18, the changes in the incentive structure, and the mandate that states conduct public awareness campaigns regarding their IV-D services.

Yet according to OCSE's Eleventh Annual Report to Congress, IV-D agencies are not even keeping up with the increases in their caseloads in establishing new orders. It appears that the backlog is growing. The Annual Report indicates that the IV-D caseload grew from 7,998,978 in FY 1984 to 9,723,890 in FY 1986, an increase of 1,724,912 cases. Yet only a total of 1,399,502 support obligations was reported to have been established during that same period, a shortfall of 325,410 cases below the number of new cases.

In addition, not only did the new orders established fail to keep pace with the increased new caseload, but there were not enough new orders established to reduce the existing backlog. While the Annual Report indicates that the FY 1986 caseload was 9.7 million, the total number of orders on which current support was due that year was reported as only 2.8 million -- suggesting that there could be as many as 6.9 million IV-D cases in which orders need to be established. The number of obligations established annually would have to more than double to keep up with the increasing caseload and to come close to establishing obligations in all IV-D cases within five years. There has not been sufficient growth in resources in the system to permit this magnitude of increase in the number of obligations established.

While resources are perhaps the primary problem in establishing new orders, other problems exist as well.

For the most part states acted quickly to change their paternity statutes of limitation. Yet paternity establishments still have not risen sufficiently to make a significant dent in the backlog of cases. These actions are particularly important because never-married mothers are the group of single mothers most likely to be in poverty and as of 1985 only 18 percent of them had support awards. We understand that failure to take action to establish paternity was probably the most often-cited failure in state child support systems in the recent round of OCSE penalty letters following federal audits of state child support systems. We applaud OCSE for taking preliminary action on these deficiencies. From our own information and experience we also know that many agencies have placed a particularly low priority on paternity establishment when there is a young or unemployed father. This a short-sighted policy because the young father who is not a financial resource for his child today may be a resource in five or 10 years. At that point, however, location problems are enormously more difficult and it may never be possible to find him to establish paternity.

We also believe that states, already overburdened by existing caseloads, have not conducted the public awareness campaigns contemplated by the 1984 Amendments. As a result, many non-AFDC recipients who need the assistance of the agency to establish or enforce an obligation are still not aware of its services.

For those cases already within the IV-D caseload but without an order for support, time frames and performance standards for agency action are needed. The expedited process standards established under the 1984 Amendments go into effect only after a case is filed against the absent parent. Time frames and performance standards should be established for the intake process, for locating absent parents, and for commencing legal action, including a standard for service of process. Enormous time delays are experienced by many IV-D clients at each of these points in the system. These federal standards would provide useful guidance for agencies; they would form a much more specific basis for federal audit standards. In addition, with these specific standards IV-D agencies should have more clout with state legislatures and governors to obtain the additional "up-front" funds to make it possible to establish and update orders in a substantially greater number of cases.

Our major suggestions include the following:

1) That OCSE move quickly to certify appropriate automatic data processing systems and to expedite approval of applications currently in the system.

2) That Congress mandate a study of the effect of the new guidelines on children's standards of living in comparison with their absent parent and mandate development of a model guideline which would achieve the objective of ending the disparity in living standards between custodial and non-custodial households and that OCSE continue to provide technical assistance on child support guidelines.

3) That Congress mandate, and OCSE develop, time standards, staffing standards, performance standards, and training standards for state IV-D programs in order to measure agency performance. Audit standards also should be tightened.

4) That OCSE encourage the investment of additional resources by states in their child support programs. In particular, OSCE could direct technical assistance to governors and state legislative budget committees regarding the importance, necessity, and ultimate cost benefits of investment in state child support systems.

5) That states be required to develop action plans for establishing orders in all or almost all cases within the next three or four years and for updating orders in older cases. These plans should include estimates of additional resources needed to accomplish these tasks.

6) That consideration be given to federalizing withholding on all child support orders or on those in interstate cases.

7) That states be mandated to establish a system which will either index or regularly update child support awards against state guidelines.

Acting Chairman Downey. Thank you. Miss Goldfarb.

## STATEMENT OF SALLY F. GOLDFARB, STAFF ATTORNEY, NOW LEGAL DEFENSE AND EDUCATION FUND

Ms. Goldfarb. Thank you. My name is Sally Goldfarb and I am a staff attorney at the NOW Legal Defense and Education Fund.

NOW LDEF is a national nonprofit public-service organization dedicated to eliminating sex discrimination and securing equal rights for women.

We are very pleased that the subcommittee is holding these hearings today and I appreciate the opportunity to appear before you.

I would like to share with you some results of a national survey that NOW LDEF recently conducted to determine the views of custodial parents on what progress has been achieved, and what problems remain, since the enactment of the 1984 Child Support Enforcement Amendments.

I have submitted written testimony that discusses the survey results at some length, so I would like to just highlight a few of the findings here.

Many of these findings echo what Diane Dodson has just been saying. The most important conclusion that emerges from our survey is that official implementation of the 1984 Amendments, as defined by OCSE, does not necessarily translate into the actual delivery of child support services to custodial parents in their local courts and IV-D offices.

Custodial parents reported to us that while a State may indeed have statutes and regulations that meet the requirements of Federal law, the procedures are not necessarily being used on a day to day basis to establish and enforce a support order.

About half of the advocates who answered our survey did see some substantial progress brought about by the 1984 Amendments. Twenty-five people out of 54 thought that wage withholding was one of the greatest improvements that the amendments had achieved.

Nine respondents listed increased awareness on the part of the general public or State officials as an important improvement. And other improvements that were noted by these parents included tax intercepts, improved services for non-AFDC families, and increased awareness of the existence of IV-D agency services.

But despite the improvements noted, the responses to our questionnaire indicate that very serious problems remain. To take one example, 78 percent of the respondents rated interstate enforcement as poor.

One woman from Ohio wrote to us about her efforts to obtain interstate support for 17 years.

An overwhelming 81 percent of those responding indicated that enforcing payments through requiring a parent to post bond or give security was poor, and 78 percent gave a poor rating to the use of liens to enforce payment.

In fact many of the parents answering our questionnaire commented that liens, posting of bond, and giving security were simply never used.

One was told by the IV-D agency that they did not know the procedure for using a lien.

With regard to wage withholding, a troubling finding—and again this echoes Diane Dodson's comments—is that two-thirds of the parents reported to us that wage withholding procedures do not generally begin at the time when they are supposed to, by law.

Said one:

> Wage withholding can't possibly begin automatically after 30 days of arrearage, when intake of cases takes at least 60 days, and then due process begins.

So bureaucratic delays are preventing this very effective enforcement technique from being as useful as it has the potential to be. For women who must pay the rent, or make a car payment, unnecessary delays of even a month, or a few months in obtaining wage withholding can have tragic results.

Significantly, 78 percent of the surveys said that the attitudes of judges, hearing officers, and case workers were impeding the delivery of child support services in their geographical area.

Many of these women told of IV-D personnel who were dismissive and uninformed about enforcement techniques. In Ohio, a IV-D agency was unable to locate an absent parent who lived across the street from the agency office.

Clearly, improved education and training is sorely needed. The lack of automated systems, inadequate funding, and inadequate staffing that results in caseloads of hundreds, or even over a thousand cases per caseworker, were also cited by many of these parents as sources of weaknesses in the child support program.

The solutions to the problems highlighted by our survey will certainly not be easy. Improved Federal funding, more stringent monitoring at the Federal level, better education and training for State and local IV-D personnel and immediate implementation of automated systems in every State are all desperately needed at this point.

As the members of this subcommittee contemplate where to go from here, we urge you to listen to the voices of the women who are struggling to obtain the child support services that they need and deserve.

Their voices come through loud and clear in the responses to our survey.

One woman from California wrote:

> We need to quit pretending that the system is working and deal with the fact that it is not, and that it needs to be overhauled.

In the words of a New Jersey mother:

> They're understaffed, papers are frequently lost, and files are misplaced. Judges are lax on fathers, frequently lower support orders, and demean the women for wasting the court's time.

An Ohio advocate told us:

> If you ask the agencies they'll tell you everything is great, but I have received hundreds of phone calls from women who say otherwise.

And a mother from Alabama wrote:

> I requested an interstate wage withholding over a year and a half ago. Still no action The father is $6,000 in arrears.

Finally, another from Ohio said:

> I filed for medical support, back child support, and alimony in June 1986. This is September 1987 and I have yet to have my hearing.

Stories like these indicate the devastating impact that inadequate child support services have on women and children. To solve these problems, we still have a long way to go. Thank you.

[The statement of Ms. Goldfarb follows:]

# STATEMENT OF NOW LEGAL DEFENSE AND EDUCATION FUND

## INTRODUCTION

The NOW Legal Defense and Education Fund is a national non-profit public service organization devoted to eliminating sex discrimination and achieving equality for women. Since its founding as a separate organization in 1970 by leaders of the National Organization for Women, NOW LDEF has worked for equal opportunities in the work place, the schools, the courts and the family. As part of our ongoing Family Law Project, NOW LDEF has developed extensive expertise on child support. We have issued several publications on child support enforcement and child support guidelines in recent years.

NOW LDEF is pleased that the Subcommittee is holding these hearings, and we appreciate the opportunity to appear before you today.

## NOW LDEF'S 1987 CHILD SUPPORT SURVEY

During the summer of 1987, the NOW Legal Defense and Education Fund undertook empirical research on state implementation of the 1984 Child Support Enforcement Amendments focusing on the point of view of the custodial parent. NOW LDEF designed a mail questionnaire asking custodial parents to rate services provided by their local child support program, seeking their opinions regarding the improvements brought about by the 1984 amendments, and requesting suggestions on how enforcement of child support obligations might be further improved. The questionnaire was sent to 204 grassroots child support advocacy organizations in 44 states. A total of 54 surveys from 26 states were returned and used as a basis for our analysis.

A detailed tabulation of the survey results is available from NOW LDEF. The opinions and experiences of these custodial parents provide valuable insights for policy makers considering further child support reforms.

## OVERVIEW OF SURVEY RESULTS

The most important conclusion that emerged from our survey is that official implementation of the 1984 amendments, as defined by OCSE, does not necessarily translate into the actual delivery of child support services to custodial parents in their local courts and IV-D offices. Custodial parents report that while a state may indeed have statutes and regulations meeting the requirements of federal law, the procedures are not necessarily being used on a day-to-day basis to establish and enforce a support order.

Nine percent of survey respondents indicated that the overall effect of the 1984 Child Support Enforcement Amendments has been "extremely positive," while 43 percent thought that the amendments have had a "somewhat positive" effect. Respondents were asked in an open-ended question to list the greatest improvements brought about by the amendments. Twenty-five people out of 54 thought that wage withholding was among the greatest improvements. Nine respondents listed increased awareness on the part of the general public or state officials as an improvement. Other improvements noted by these grassroots advocates included the tax intercept provisions, improved service to non-AFDC families, and increased awareness of the existence of IV-D agency services.

Despite the improvements noted, the responses indicate that serious problems remain. The following section will address the opinions of custodial parents regarding implementation of some of the most significant provisions of the 1984 amendments, focusing on treatment of non-AFDC families.

### Wage Withholding

Because the requirement that states implement procedures for mandatory wage withholding is one of the most significant provisions of the 1984 amendments, the NOW LDEF questionnaire included several questions about this area of enforcement. Of the thirty-five responses tallied, all indicated that wage withholding had been implemented in their state. Ohio advocates indicated that immediate withholding had just been implemented, while in most other states, the withholding goes into effect when arrearages total the support payments for 30 days.

Fifty-seven percent of advocates rated wage withholding in their area as "poor," while 23 percent rated it as "fair." A Tennessee advocate indicated that the process in her area was "very good." In an illustration of how enforcement practices can vary between counties of the same state, an advocate from Allegheny County, Pennsylvania rated wage withholding as "excellent," while advocates in Fayette and Beaver counties rated wage withholding as "fair" and "poor," respectively.

Twenty-six percent of respondents indicated that the wage withholding process generally begins when it is supposed to, while 66 percent indicated that it did not. For women who must pay the rent or make a car payment, unnecessary delays of even a few months in obtaining wage withholding can have tragic results. Several Ohio advocates commented that while withholding of wages in new support orders was done in a timely manner, having the procedures implemented for already existing cases was still a problem. An Indiana advocate commented that the wage withholding law was not applied by local judges. Respondents from Michigan and Ohio commented that for the most part, wage withholding is only implemented when the parent requests it. And in spite of provisions in the law which require states to implement the procedure in interstate cases, an Alabama parent has been waiting since February, 1986 for a wage withholding order sent to another state to be enforced. The non-custodial parent in this case is $6,000 in arrears. Finally, with respect to the time elapsed between triggering the withholding process and receipt of the first check, advocates from Connecticut, Ohio, and Oklahoma commented that service of process is often the reason for the delay.

## Access to Services and Publicity

P.L. 98-378 mandated that states publicize the availability of IV-D agency services. The NOW LDEF survey asked advocates to rate the "ability of parents to get access to the IV-D agency by phone or in person" Fifty percent of respondents indicated "poor," 20 percent indicated "good," 20 percent "fair," and 8 percent "excellent." Advocates in Richland County, Ohio; Alabama; and Oklahoma indicated that the IV-D offices in their area only accept phone calls during certain hours of the day. An advocate in Kentucky reported that a county IV-D agency will not make appointments with custodial parents. Rather, parents must go to the agency and wait to be helped on a first-come, first-served basis, much to the inconvenience of working parents, who must wait an average of two to three hours.

Parents were also asked to rate IV-D agency performance in the area of publicizing the availability of IV-D agency services. Seventy-two percent of the respondents answered "poor," while 11 percent answered "fair." One survey respondent from Ohio commented that her county IV-D office did not advertise because the office does not want larger caseloads.

## Expedited Processes and Speed of Processing

The 1984 amendments contain a provision that requires states to develop "expedited processes," or something other than a full judicial hearing, for securing and enforcing support orders. Ostensibly, use of these new processes would reduce the long delays and resulting frustration of custodial parents as they wait for a court hearing to determine a child support award or enforce a delinquent support order.

Two questions asked respondents to rate the IV-D agency in their area on speedy processing of child support cases. With respect to the speed of processing new cases, fifty-five percent of respondents answered "poor," and 24 percent answered "fair." When asked to rate the area IV-D office on the basis of speedy processing of pre-existing or backlogged cases, 72 percent of the advocates answered "poor." Apparently, whether or not expedited processes have been implemented, a majority of parents are still encountering long delays in the process of obtaining current and past-due child support payments, particularly if the case has already been in "the system" for some time.

For example, Michigan's Friend of the Court system is often cited as an example of a successful expedited process. However, one advocate from Michigan commented on her own case with respect to the effectiveness of expedited processes: "Personally, I feel this is ludicrous." Having received only 6 weeks of support payments for all of 1987, she requested a show-cause hearing on May 11, 1987, and was finally notified in August that the hearing would be held on August 31.

### Establishing Paternity

Establishment of paternity is perhaps the most time-consuming and expensive aspect of child support enforcement; therefore, paternity establishment cases are often given low priority by the IV-D agency. In an attempt to address this problem, the 1984 law permits states to exclude the laboratory costs incurred in the establishment of paternity when figuring state administrative costs to determine the amount of federal incentive payments. The 1984 amendments also required states to extend the statute of limitations to at least age 18. The NOW LDEF questionnaire included a question about the IV-D agency's performance in establishing paternity Forty-one percent of those surveyed answered "poor," while 16 percent rated paternity establishment as "fair" and 15 percent as "good." Twenty-eight percent of the respondents answered "don't know." No state received an "excellent" rating in the establishment of paternity.

### Interstate Enforcement

Enforcement of child support orders from one state in another state has long been a problem for custodial parents. In reality, if an absent parent wants to avoid monthly support obligations, he can frequently do so by moving across state lines. Seventy-eight percent of respondents rated interstate enforcement as "poor". One Ohio advocate commented on her own interstate case which has been ongoing for 17 years: "Seventeen years is too long." An advocate in Los Angeles County, California commented: "This area is worse than poor, awful would be a better word." In their comments, many parents referred to the complicated and time-consuming nature of interstate cases pursued through the Uniform Reciprocal Enforcement of Support Act and the Revised Uniform Reciprocal Enforcement of Support Act (R/URESA).

### Locating an Absent Parent

In 1974, Congress' enactment of P.L. 93-647 established the Federal Parent Locator Service (FPLS). According to the provisions of the 1974 statute, this service was to be extended to non-AFDC families in addition to AFDC families. Locating an absent parent is one of the first steps in enforcing and establishing a support order.

Approximately sixty-eight percent of questionnaire respondents rated parent locate services as "poor". Approximately eighteen percent rated this aspect of support enforcement as "fair," and 4 percent rated it as "good." No states were given an "excellent" rating in locating an absent parent. A Kentucky advocate commented that parents are routinely told that the agency cannot locate an absent parent without a current address. Respondents from California, Michigan, and Pennsylvania indicated that custodial parents often do the locating work on their own with little assistance from the IV-D agency. In Ohio, a child support enforcement office was unable to locate an absent parent who lived across the street from the IV-D agency.

### Use of the Federal and State Tax Refund Intercepts

A 1981 amendment to Title IV-D allowed the IRS to intercept federal income tax refunds of absent parents who owed child support to AFDC children. The 1984 law amended this provision by extending the service to non-AFDC children. In addition, the 1984 legislation requires that states with state income taxes develop a system to intercept state tax refunds of obligors.

Twenty-six percent of advocates returning questionnaires rated federal intercept services as "fair". Another 18 percent rated the enforcement of this provision in their area as "good," while two advocates, one in Indiana and another in Pennsylvania, thought their area did an excellent job of enforcing payment through federal tax refund intercepts.

With respect to state tax refund intercepts, twenty-eight percent of the respondents answered "don't know". This may be due to the variation in implementation deadlines such that many states have just started to implement this technique. Twenty-eight percent of advocates thought that their local agency's use of the state tax refund intercept was "poor," while 22 percent thought it was "fair." Thirteen percent of the respondents live in a state with no income tax.

## Use of Liens, Posting Bond, Contempt of Court, and Jailing

While the provisions for wage withholding and tax intercepts greatly benefit children of employed obligors, remedies are also needed to enforce payment by obligors who are self-employed, employed "under the table," or receive income from non-employment sources. The 1984 legislation included provisions that require states to develop procedures whereby liens would be imposed against real and personal property for amounts of overdue support. Moreover, states are required by the legislation to develop procedures which require that an absent parent post bond, give security, or otherwise give a guarantee to secure payment of support.

An overwhelming 81 percent of advocates questioned indicated that enforcement of payment through requiring a parent to post bond or give security was "poor". Seventy- eight percent indicated that enforcing payment through use of liens was "poor". Commenting on these provisions, advocates used phrases like: "never done," "non-existent," "have never heard of this being done," "refuses to do this." In one case, an advocate was told by the IV-D agency that personnel did not know the procedure for enforcing payment through liens.

While not specifically addressed by the Child Support Enforcement Amendments, jailing an obligor for contempt of court for not paying child support obligations is a practice used in some jurisdictions. This approach is an important and effective enforcement technique. Seventy-four percent of respondents rated their state or local agency's application of this practice as "poor". Comments often referred to the attitude of judges as instrumental in preventing more frequent imposition of jail sentences. Advocates referred to judges who, rather than issuing a jail sentence, issue a "slap on the wrist" and another chance to pay. An Alabama advocate commented that jailing was done only during an election year.

## Modification of Award Amounts

According to the most recent Census Bureau data, the average amount of child support received in 1985 was $2,215, or approximately $185 per month. This represented a decrease of 12.4 percent in real terms since 1983. In addition to a prevalence of less than adequate award amounts, a California study found that fewer than 10 percent of support awards studied included provisions for cost-of-living adjustments.[1] While the 1986 amendment, P.L. 99-509, addressed the common practice of modifying or forgiving arrears, support orders are routinely considered for upward or downward modification.

The NOW LDEF questionnaire asked advocates to evaluate the extent to which the IV-D agency in their state or area secures upward modification of award amounts for IV-D clients and likewise, the extent to which downward modification of awards is prevented. Twenty percent of respondents were unable to evaluate the extent of upward modification and 28 percent were unable to evaluate the limits placed on downward modification. Fifty-nine percent of respondents rated upward modification as "poor," while forty-four percent rated prevention of downward modification as "poor."

### Inclusion of Medical Support in Child Support Orders

The Census Bureau reports that only 45 percent of mothers awarded child support as of Spring 1986 had health insurance included in the award. The 1984 amendments include a provision which requires state IV-D agencies to "petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost." This provision is important in attempting to reduce the high numbers of uninsured children. Forty-six percent of respondents rated the state or local agency's activity in this area as "poor," while 22 percent were unable to answer. Fifteen percent rated enforcement activity in this area as "fair."

### Credit Bureau Reporting

Another provision of the Child Support Enforcement Amendments of 1984 requires that states have in place procedures for reporting overdue support of $1,000 or more to consumer credit bureaus, but only if the credit bureau requests the information. While Nebraska and Alaska have chosen to implement systems of automatic credit bureau reporting, the majority of states are not providing this information unless it is requested. Eighty percent of respondents to the NOW LDEF questionnaire indicated that credit bureau reporting was "poor."

### Child Support Guidelines

The survey asked the advocates to comment on the child support guidelines developed in their state. According to the 1984 amendments, states must establish support guidelines by October 1, 1987, which "shall be made available to all judges and other officials who have the power to determine child support awards . . . but shall not be binding upon such judges or other officials." The regular use of award amount guidelines by judges will ostensibly result in greater consistency and adequacy of child support awards.

Of the 12 Ohio advocates who were aware of guidelines having been developed in their state, ten thought that the guidelines would result in higher award amounts, while two advocates thought award amounts would be lower. Of the 28 advocates in other states who were aware of guidelines being implemented, six were not sure of the effect use of the guidelines would have on award amounts. Five advocates thought award amounts would be the same; six thought they would be higher. And finally, an advocate from Maryland indicated that award amounts would be higher for middle and low income families, but lower for upper income families.

### Other Findings

The survey asked advocates to identify factors that they thought were instrumental in impeding prompt and effective child support services in their area. Space was provided for parents to indicate factors which were not included in the list on the survey form. Significantly, 70 percent of respondents indicated that the attitude of judges and hearing officers prevented effective enforcement of child support orders. Sixty-one percent cited attitudes of judges and hearing officers as one of the three most important factors preventing effective enforcement. Furthermore, in the space provided for advocates to list other factors, eight people listed the attitude of caseworkers. In fact, 78 percent of the surveys cited attitude-related problems of some sort as detrimental to effective enforcement. Seventy percent of respondents indicated that understaffed offices affected enforcement activities, while 56 percent felt that uninformed caseworkers were a factor. Fifty percent of respondents indicated that multiple-agency responsibility played a part in preventing effective enforcement. Lack of a computerized system to track cases was cited by 48 percent of respondents, while lack of funding was cited by 43 percent of respondents.

### Summary

While a majority of advocates rated enforcement activities in their geographical area as "poor," most were also able to cite improvements in the child support enforcement system since 1984. However, the responses to our questionnaires, together with reports from other groups[2] and OCSE itself, indicate that the Child Support Enforcement Program needs major improvement.

## GENERAL RECOMMENDATIONS

NOW LDEF's contact with grassroots advocates yielded numerous suggestions for improvement. Many point to the need for increased federal funding.

### 1. Improved Federal Monitoring

From the point of view of a majority of custodial parents responding to the NOW LDEF questionnaire, many of the problems custodial parents experience stem from understaffed offices (due in part to inadequate funding), attitudes of judges, attitudes and knowledge of caseworkers, and the confusion and delays caused by multiple-agency responsibility. Many of these problems could be ameliorated through improved monitoring efforts at the federal level.

Reports of the General Accounting Office (GAO),[3] and concerns expressed by members of the National Child Support Advocacy Coalition (NCSAC),[4] point to a need for stronger monitoring at the federal level with regard to implementation activity. While the quarterly reports issued by OCSE purport to indicate actual implementation of federally mandated procedures, the GAO and advocates question the reliability of this information. More reliable information is needed about the extent to which IV-D agencies are complying with state legislation and regulations enacted in response to the federal mandate for action.

Research by NOW LDEF indicates that program audits are the most comprehensive and accurate indication of how well states are complying with the provisions of the 1984 amendments, and the only review process that requires case review. Regrettably, a drop in the number of auditors over the past several years interferes with timely reporting of audit findings as well as follow-up audits. Regular comprehensive audits and follow-up audits to ensure compliance are essential for proper implementation and continued application of procedures. Rather than reducing the scope of audits and the number of field auditors available, federal funding of the audit activity must be sufficient to carry out this function adequately.

### 2. Education and Training

While stricter monitoring and improved leadership at the federal level will help in alleviating management deficiencies at the state administrative level, federal agency personnel should also cooperate in education and training efforts aimed at improving the attitudes and knowledge of local caseworkers, judges, attorneys, and others with direct contact with custodial parents.

Respondents to the NOW LDEF survey cited judicial discretion as detrimental to strict and effective enforcement. Efforts to educate judges on the extent of non-payment and typical patterns of support would help in reducing the number of "second chances" given to absent parents and the number of inadequate support orders. Similarly, public education efforts aimed at framing child support enforcement as a benefit to society could enhance public cooperation in efforts to force absent parents to meet their obligations. While federal and some state efforts since 1984 have been significant in these areas, much more public and judicial awareness of the issues needs to be fostered.

In addition, as statutes and regulations are enacted in each state, education and training of caseworkers and attorneys should be a priority of state agencies, with technical assistance from OCSE. Survey respondents commented in some cases that caseworkers and attorneys did not know how to apply particular enforcement strategies and, on occasion, did not even know that a particular strategy was available.

3. Automated Systems

Forty-eight percent of survey respondents indicated the lack of automated systems to track and monitor child support cases as a factor impeding effective and efficient enforcement. Clearly, automated tracking and monitoring systems will facilitate accurate record keeping and more efficient case management. All states should be immediately required to develop automated systems for tracking and monitoring cases. Improved federal financial participation in the development of these systems is essential.

4. Access to and Publicity of Services

Responses to the NOW LDEF questionnaire indicated that access to and knowledge of IV-D agency services is less than adequate in many areas of the country. According to advocates, many non-AFDC parents think that a private attorney is the only recourse available when child support is not paid. There are still apparently thousands of custodial parents who are not in the IV-D system and therefore not included in data on support paid, arrearages due, and similar statistics. While several states have developed and support toll-free child support information hotlines, a federal toll-free hotline that custodial parents could call for child support information, referral and assistance would be of immeasurable benefit.

5. Case Management

While improved publicity of services is a worthy goal, many states are already overburdened by heavy caseloads. Is it advisable for states with already overextended caseworkers to advertise services and further strain the IV-D system and frustrate even more custodial parents? Federal funding through direct appropriations or incentives is needed to address the needs of local and state offices for more caseworkers to handle the ever-increasing numbers of parents in need of child support services. As noted in the discussion of survey results, a majority of advocates indicated that understaffing of offices was a factor in weakening enforcement. The April 1987 GAO report cited earlier recommended that OCSE develop, as part of the audit procedure, a standard for directly assessing the sufficiency of staff. NOW LDEF concurs with this recommendation.

Clearly, the caseload problem is only exacerbated by the amount of time between opening a case and receipt of the first support payment. The expedited process provision was designed to alleviate to some extent the heavy backlog due to long waits for court dates. More information is needed about the success of expedited procedures, and consideration should be given to establishing time limits on the handling of child support cases.

More information is also needed about the claims made by representatives of NCSAC and several respondents to the NOW LDEF survey that OCSE is putting disproportionate emphasis on collection of child support for AFDC families. Related to this concern is one expressed by the GAO in its April 1987 report with regard to the states' apparent emphasis on maximizing incentive payments and thus, avoiding support enforcement cases that are more difficult and expensive to pursue. The federal government should review the incentive payment structure and audit performance criteria to determine if changes can be made which will improve collection rates on the more difficult cases which states currently may to be avoiding.

Summary of General Recommendations

Strong leadership at the federal level, improved federal monitoring efforts, adequate federal funding, and automated systems, combined with improved efforts to train and educate judges, caseworkers, policy makers, and the general public, will favorably affect every aspect of child support establishment and enforcement. Implementing the preceding recommendations would improve overall case management to the benefit of custodial parents. Nevertheless, several other problems and proposals with respect to specific components of the child support program also need to be addressed.

## RECOMMENDATIONS CONCERNING SPECIFIC ENFORCEMENT TECHNIQUES

### 1. Immediate Wage Withholding

A recommendation for improvement put forth by respondents to the NOW LDEF survey and included in several of the welfare reform proposals introduced in Congress would require that states automatically initiate wage withholding upon the issuance of a child support order.

Immediate wage withholding is the next logical step to take toward curbing the extent of nonpayment. The accounts receivable data reported by OCSE for 1986 reveal a crisis in past due support. Total past due support in fiscal year 1986 was over $8.8 billion, of which only 8.6 percent, or $761.5 million, was collected. These figures underscore the importance of enforcement techniques that will prevent the accrual of arrearages. Commenting on the wage withholding process, respondents to the NOW LDEF questionnaire revealed that withholding after arrearages have accrued is often delayed by bureaucratic inefficiency and by necessary due process procedures. Implementing wage withholding immediately upon issuing a child support order (subject to the parents' mutual decision to opt out) would have a great effect on improving the regular and timely receipt of support.

### 2. Interstate Enforcement

In general, interstate enforcement is characterized by multiple agency responsibility and consequent long delays as a case proceeds through the institutional maze.

Provisions of the 1984 amendments were designed to facilitate interstate enforcement by enabling states to bypass the time-consuming R/URESA process. The legislation also changed the incentive payment structure to allow equal credit to both the initiating and responding states in an interstate case. While R/URESA is still preferred and recommended in some interstate support cases, especially those involving the establishment of paternity, there are other orders which could be enforced by avoiding the R/URESA process altogether. Even so, URESA is still being used to a large extent instead of administrative or quasi-judicial procedures that have been implemented in response to the expedited processes provision.

It remains to be seen how effective the final interstate enforcement regulations published on February 22, 1988, will be in improving interstate services. Other proposals for improvement that are worthy of adoption include the previously mentioned national toll-free hotline and establishment of a commission on interstate enforcement.

### 3. Paternity Establishment

As previously noted, cases requiring states to establish paternity are generally given a low priority due to the costs involved and the general perception that the cost-benefit ratio is lower than in other cases. The April 1987 GAO report detailing paternity establishment and enforcement of support orders reported that only 27 percent of the children in the study sample did not require paternity and/or support order services. Of the 73 percent of the sample requiring paternity and/or support order services, the GAO judged agency efforts on behalf of 42 percent to be "inadequate." Clearly, the federal government must do more in the form of incentive payment structure and financial participation in order to improve paternity establishment.

### 4. Locating the Absent Parent

A majority of respondents to the NOW LDEF questionnaire indicated that parent locate services were poor. Additional comments indicated that the responsibility of locating the absent parent is generally left up to the custodial parent.

Advocates questioned the usefulness of the FPLS and claim that other innovative techniques might prove more effective. As the first step in establishing and enforcing a support order, effective parent locate services are an essential component of any child support enforcement program. As with other enforcement techniques, automated systems and sufficient staff and training at the state level will improve parent locate services.

5. Credit Bureau Reporting

The provision in the 1984 amendments requiring states to implement procedures for reporting overdue support of $1,000 or more to consumer credit bureaus upon the request of the credit bureau has apparently not had much of an impact on support collections. There are two notable exceptions, however. In Alaska and Nebraska, the IV-D agencies have implemented automatic reporting of arrearages.[5] As with so many other enforcement techniques, an adequate automated system is a prerequisite for credit bureau reporting as implemented in Alaska and Nebraska. As states move toward improving enforcement efforts, automatic credit bureau reporting, with appropriate due process protections, should be given serious consideration.

6. Inclusion of Medical Support in Child Support Orders

The advocates' impression that enforcement in the area of obtaining medical support in child support orders is for the most part "poor" is disturbing, particularly in light of the large numbers of uninsured children in our nation.

Advocates in contact with NOW LDEF have also mentioned that custodial parents are having difficulty obtaining proper reimbursement for medical expenses even if they are successful in obtaining medical support from the absent parent in the support order. According to these advocates, the absent parent may never enroll the child in his health insurance plan once the support order is established. Also, frequently the custodial parent pays for the medical bill "up front" but the absent parent/subscriber receives the payment from the insurance company and never forwards the payment to the custodial parent. Advocates maintain that regulations should require insurance companies to reimburse the custodial parent directly, thus eliminating the opportunity for the absent parent to pocket the money. More information regarding the prevalence of this practice appears to be needed.

7. Liens, Bond Posting, Contempt of Court, and Jailing

The importance of the use of liens, contempt of court, and jailing in enforcing support orders against self-employed obligors and obligors with otherwise unidentified or unreachable assets cannot be overemphasized. Yet it is in these areas of enforcement that advocates overwhelmingly rated efforts as "poor." Many advocates commented that the procedures were never used. With respect to jailing, respondents were particularly critical of judges who issue a "slap on the wrist" rather than a jail sentence. One advocate commented that caseworker knowledge of the procedures for applying liens was a problem.

Once again, improved training, education, and sensitization of judges and caseworkers will serve to improve this area of enforcement. The extent of consensus among advocates with regard to the bond posting and liens procedures indicates that this is one enforcement area requiring extra attention.

8. Federal and State Tax Refund Intercepts

The federal and state tax intercept provisions are effective, but apparently underutilized, enforcement tools. While OCSE officials attribute most of the underutilization to ineffective automated systems, advocates also identify caseworker knowledge as a problem. Again, improvement in the areas of caseworker training and automated systems will in all likelihood improve implementation of federal and state income tax intercepts. Of concern to many advocates is the provision in the 1984 amendments that extends the federal tax intercept program to non-AFDC families only for refunds payable before January 1, 1991. Clearly, the continuing problems in enforcing payment of support indicates that this sunset provision should be repealed and the service extended permanently to all families, not just those receiving AFDC.

9. Child Support Guidelines

States were not required to have guidelines for establishing child support awards until October 1, 1987. Thus, the effect of state guidelines on collections nation-wide is not yet fully apparent. Nevertheless, several of the bills introduced in Congress would require mandatory use of guidelines rather than leaving the use of the guidelines to individual judges' discretion. While it is clearly important to limit judicial discretion with respect to establishing award amounts, there is also a danger in making use of guidelines obligatory in every case. We therefore recommend that any provision for mandatory use of guidelines be framed as a rebuttable presumption, thus allowing for exceptions in cases where use of the state guidelines would not be appropriate.

Summary of Specific Recommendations

Enacting the proposals and recommendations discussed in the preceding section would undoubtedly increase collections and improve enforcement of child support orders. However, as this report and others have noted, states are at present experiencing difficulty in effectively implementing the provisions of the 1984 amendments. Caution must therefore be exercised with respect to recommending more changes. Realistically, one cannot expect a state to implement immediate wage withholding if the current system for wage withholding is overwhelmed. Likewise, effective interstate enforcement depends to a large extent on the state's ability to process intrastate cases. The proposals are nevertheless worthy of consideration and implementation. Policy makers at the federal level are encouraged to investigate all available records and statistics with regard to state and local enforcement efforts. Clearly, there is room for improvement, and successful approaches discussed above need to be considered for implementation on a national level.

In the search for solutions to the continuing problem of low awards and non-payment, policy makers should also seek out the opinions of the custodial parents in their state or area. Many of the respondents to the NOW LDEF survey demonstrated a sophisticated knowledge of the laws and procedures affecting child support.

Collection of child support payments must not be allowed to continue at the current inadequate level. Improving the establishment and enforcement of support would have a dramatic beneficial effect on the economic standing of women and children who are currently condemned to poverty by inadequate child support.

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1. L. Weitzman, The Divorce Revolution at 281 (1985).

2. See, e.g., ACES, Child Support Enforcement Problems in the United States (July 1987); Parents Without Partners, Summary of Problems in Using Child Support Systems Expressed by Callers to PWP's Child Support Hotline (undated) (summarizing complaints by callers from November 1985 until April 1986); Parents Without Partners, Spot-Check of Maryland's IV-D Agencies (Mar. 1987).

3. U.S. General Accounting Office, Child Support: Need to Improve Efforts to Identify Fathers and Obtain Support Orders (April 1987); U.S. General Accounting Office, States' Progress in Implementing the 1984 Amendments (Oct. 1986).

4. Information about NCSAC was obtained through telephone interviews with Ruth E. (Betty) Murphy, NCSAC president, and Virginia Nute, NCSAC member and former director of public affairs at Parents Without Partners.

5. Office of Child Support Enforcement, U.S. Dep't of Health and Human Services, "Alaska and Nebraska Report Child Support Debtors," 9 Child Support Report 6 (June-July 1987).

Acting Chairman **Downey**. Thank you for your testimony.

We will next hear from the Evergreen Legal Services of Seattle. Debra Perluss.

## STATEMENT OF DEBORAH PERLUSS, ATTORNEY, EVERGREEN LEGAL SERVICES, SEATTLE, WA

Ms. **Perluss**. Thank you. Good morning, and thanks for having me here. My name is Deborah Perluss. I am an attorney employed by Evergreen Legal Services, the statewide legal services program in Washington that provides free civil legal services to low-income persons.

Many of our clients are low-income women with children who receive aid to families with dependent children, and I appear here on behalf of those clients, and to address their specific concerns with respect to the Office of Support Enforcement, the IV-D agency in Washington State.

Before I get into my prepared statement, I just want to comment that it is interesting, sitting here listening to the testimony today, and uniformly, the experience of my clients in Washington State seems to be repeated, uniformly, throughout the entire country, and I find that gratifying in the sense that Washington apparently is not so far behind in terms of its compliance with the child support enforcement amendments.

But it is also extremely frustrating in knowing that it is apparently the experience throughout the country.

Of over 67,000 families in Washington State that receive AFDC benefits for absent parent benefits each month, the State IV-D agency collects support for only about 8,000 of these families, or 11 percent of its caseload.

There are three of four barriers that I see to the support enforcement system in Washington, and again, I think that these are reflected in the previous testimony that we have heard today.

Those four barriers are: first, systematic delays in initiating and taking enforcement action; second, the lack of any automated delinquency control system for tracking and monitoring cases once they are in the system, and enforcement and collection action has begun, and therefore, there is no decent automated tracking of those cases; third, the problems with distribution of child support, once it is collected, to low-income families who are on AFDC, particularly in reference to the $50 disregard authorized by the Social Security Act and those families who are recently terminated from AFDC, and are in transition from being on AFDC to the post-AFDC period.

And then finally, the lack of agency commitment to seeing itself as something more than a collection agency for the State, and seeing itself as a resource for families who are low income, and in need of support enforcement services.

To first address the question of the systemic delays in enforcement, I would like to point out that backlog is an amazing problem in Washington as it is apparently a problem in most other States.

In November 1986, there were 7,000 referrals in the Seattle office that handles 37,000 support enforcement cases, and 7,000 referrals from both the title IV-A agency, and non-AFDC custodial parents, had not been entered onto the support enforcement system, which is the first step in initiating those collections.

Evergreen Legal Services has filed some litigation on behalf of both AFDC recipients and non-AFDC recipients with respect to distribution of child support, and subsequent, to the filing of the first case, that backlog, at least in the Seattle office, was reduced to 1,680 cases.

That backlog continues to be a problem, each and every month, with new referrals from both the IV-A agency and new applicants for nonassistance-support-enforcement services.

Obviously the problem relates to the caseload/staff ratio, and the lack of any time requirements that are implicit within the system for getting the cases on the system and initiating collection action.

Second, there are incredible delays with the locate process. In Washington State, the traditional method of trying to locate the absent parent is through the Employment Security System, which is a computer match. Employers in Washington State are required to report to the Employment Security System on a quarterly basis.

What this means is that referrals that go to the Employment Security Office in order to match the names of the absent parents will constantly be outdated because there is a constant cycle of quarterly reports that only reflect the last quarter's employees within the State.

Obviously what occurs is there is no ability to locate frequent job-changers, persons who are self-employed, or seasonal workers, and there is no effective way to locate people who are employed outside the State in those contexts.

With respect to the actual compliance with the Child Support Enforcement Amendments of 1984, Washington has a mandatory wage-withholding system in place; however, it typically uses the mandatory wage-withholding process as a device for getting absent parents to contact the agency and negotiate a voluntary wage assignment for lower amounts than are required under the support orders.

Hence, there is a constant cycle of lower awards being actually enforced than the amount that may have been ordered in court actions.

Also in Washington, the withhold order terminates once arrears are brought current and what happens then is that the absent parent frequently will go into arrears, the order will issue, he will bring the arrears current, and then the withhold order will not continue with respect to future support. The agency has to start all over again with the collection process. So the family is, again, constantly behind in terms of its receipt of support.

The interstate wage withholding system is a disaster, I think, both throughout the country, and for my clients in Washington State.

Evergreen Legal Services has in fact requested that HHS make Washington's failure to take interstate wage-withholding action in appropriate cases a subject of its 1988 audit of our IV-D agency.

Some specific examples are one client who has a child support maintenance order of $1,000 per month, and is receiving AFDC. The absent parent is a vice president of an insurance company in California.

His employer, and address from which his check is issued have been verified, and no wage withholding has been commenced through the interstate process, and no information can be ascertained as to why not.

Other examples exist throughout. One example is of a client whose former husband has recently won the Arizona lottery. He won $1 million and receives $80,000 annually. The Washington State IV-D agency simply has not been able to take any effective action to collect on the support obligation.

The absence of effective interstate wage withholding is a problem when it comes down to the distribution of that support, and the timely receipt of that support, given HHS's interpretation of section 457 (b) and (c) of the Social Security Act. I would like to address that for a minute because we specifically have litigation on those points.

First of all, I would like to say that given the lack of an automated delinquency control system in Washington, the only effective triggering device for the IV-D agency to know that payments have not been received on a regular basis is contact from the custodial parent to the agency, saying "where is my support?" Or in the AFDC situation, "where is my $50 disregard payment that I am supposed to receive because support is being collected?"

Therefore, in the AFDC cases, the $50 disregard provision has a very effective triggering function for the IV-D agency. If the family does not receive the payment they contact the agency.

Similarly, it is in fact an incentive for the custodial parents to cooperate with the IV-D agency, to try to locate the absent parent, and to make sure that they are contacting the employer to find out where the $50 is, and if the support is being paid.

At least one OSE administrator in deposition testimony, in one of the cases that we have pending, has indicated that prior to the $50 disregard they rarely heard from AFDC recipients with respect to child support.

Since the $50 disregard payment has been in effect they do receive very frequent contact from AFDC recipients about the child support and wanting to know the status of their case.

This also raises the issue that, traditionally, AFDC recipients have been outside the support enforcement system, and have not been provided with adequate notice or information about what services are available to them within the support enforcement system.

Third, the $50 disregard payment again is the one way that AFDC recipients know that support is actually being collected on their behalf, and therefore, they know that if that support is being collected they can begin to plan for a future without AFDC.

We have many clients where that has specifically been a factor in their terminating themselves from AFDC.

And then, finally, it has added income for a family. In Washington State, AFDC benefits are only 60 percent of the actual-needs standard, and the $50 payment represents a significant added benefit in income for that family.

HHS has interpreted the provisions of the $50 disregard to allow for only a single $50 payment for each month in which child support is actually collected, notwithstanding the fact that more than 1 month's worth of child support is collected in a given month.

Therefore, what happens in the absence of interstate wage withholding systems and mandatory wage withholding systems in which the money is coming in on a regular monthly basis, you might get one lump-sum payment in that represents payments over a 3-month period because an employer will pay the support perhaps on a quarterly basis, but the family will receive only one $50 payment, rather than receiving a $50 payment for each month represented by the payments within that quarter.

A couple of Federal judges have ruled that that violates the spirit and intent of section 457(b) of the Social Security Act, and a ruling on that issue is presently pending in Washington. We would request this that is definitely in need of some looking at.

Similarly, that problem occurs in the post-AFDC context, because again, HHS has interpreted section 457(c) of the Social Security Act to allow the States to retain any amounts that they collect in excess of the current obligation.

Therefore, in the absence of effective interstate wage withholding, or mandatory wage withholding, or automated delinquency control systems that will track the nonpayment of support on a regular basis, the families lose the benefit of payment of support.

What happens is—and we have some specific examples of this in the case of Juanita Mullen, one of the plaintiffs in a case that we are litigating right now.

She terminated from AFDC in July of 1987, on the understanding that the State was actually collecting support on her behalf. She believed that with her part-time job and the receipt of this support she would be able to be self-sufficient and not be in need of AFDC.

For the first time in 2 years, the support payment did not come in in August because the court clerk to whom the support had been paid did not process that payment in a timely way.

Two months of support were received by the IV-D agency in September. The IV-D agency paid only the September payment and retained the rest to reimburse itself for AFDC.

Acting Chairman DOWNEY. Could you summarize the remainder of your statement, please.

Ms. PERLUSS. Yes. I will. With respect to these things, I have some specific recommendations for legislation in this area. One, I believe that Congress should strengthen the express goals of the Child Support Enforcement Amendments of 1984 in order to induce greater attention to the needs of the families rather than to simply collection action by the State to reimburse itself for AFDC payments.

Two, Congress should require that all States have automated delinquency control systems and should fund the development of those systems.

Three, Congress should require that there be mandatory interstate wage withholding systems, and that financial penalties should attach for failure to initiate administrative wage withholding in the appropriate cases.

Four, Congress should impose specific time limits for initiating collection action, and that those time limits should be subject to audit reviews on a regular basis.

Five, obviously additional funding is needed to reduce the staff/caseload ratios, and to develop computer-generated forms, notices, followup and other tracking activity.

And finally, Congress should look very closely at how HHS has interpreted the provisions of section 457 (b) and (c) of the Social Security Act, and make the necessary changes to insure that families receive the full benefit of the support that is collected on their behalf.

Thank you.

[The statement of Ms. Perluss follows:]

# TESTIMONY OF DEBORAH PERLUSS BEFORE THE SUB-COMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION OF THE HOUSE COMMITTEE ON WAYS AND MEANS

FEBRUARY 23, 1988

## I. INTRODUCTION

My name is Deborah Perluss, and I am an attorney employed by Evergreen Legal Services, a Statewide Legal Services program that provides civil legal services to the poor in Washington State. Many of the clients we serve are women with children who receive some form of public assistance, usually through the Aid to Families with Dependent Children (AFDC) program. In Washington, there are approximately 72,500 families receiving AFDC in any given month.[1] Approximately 65,000 families receive AFDC-Regular (absent parent) benefits, while about 7500 families receive AFDC-Employable (two parent households) benefits.[2] Washington ranks 16th among the 50 states and the District of Columbia in AFDC-Regular caseload.[3]

The courts in Washington state dissolve approximately 14,000 marriages each year involving children.[4] About 11,000 children are born each year in Washington out of wedlock.[5] The absence of or inadequate amount of child support is a major cause of families having to rely on AFDC in Washington to meet their basic needs. The Title IV-D agency in Washington is called the Office of Support Enforcement (OSE) and is a unit of the State Department of Social and Health Services (DSHS).

Even though over 65,000 families in Washington receive AFDC-R benefits each month, OSE collects support for only about 8,000 of these families, or about 11% of its caseload.[6] Total child support collections for the AFDC caseload in Washington for the last three fiscal years were as follows: 10/84 - 9/85 $31,986,124; 10/85 - 9/86 $33,395,688; 10/86 - 6/87 $29,019,741.[7] Total AFDC expeditures for the same periods were as follows:

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|---|---|
| 10/84 - 9/85 | $297,068,018 |
| 10/85 - 9/86 | $336,863,401 |
| 10/86 - 6/87 | $267,185,739[8] |

When poor families in Washington seek child support enforcement services from OSE, either because they apply for AFDC or are in need of non-assistance support enforcement services, they face a number of barriers to the effective receipt of services. Among these barriers in Washington are:

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[1] State of Washington, Legislative Budget Committee, Aid to Families with Dependent Children (AFDC) Caseload Study, Proposed Final Report, January 14, 1988 at iii.

[2] Id.

[3] Id.

[4] Governor's Executive Task Force on Support Enforcement, Final Report, Sept. 1986 at 5.

[5] Id.

[6] See Declaration of Georganne Dekay, Administrator OSE, submitted by State Defendant in Vanscoter, et. al. v. Bowen and Sugarman, U.S.D.C. W.D. Wash. C-86-1598, decision pending.

[7] Id.

[8] Id.

(1) OSE's failure to fully utilize the remedies and mechanisms available to collect support, including intra and inter-state wage withholdings, foreclosure on property liens, and securing payment through bonds or securities,

(2) OSE's attribution of low priority to cases in which the custodial parent is not able to provide explicit information about the absent parent's whereabouts or employment,

(3) The lack of any automated delinquency control system that would quickly trigger action on missed support payments,

(4) OSE's failure to monitor employers' compliance with wage withholding procedures,

(5) OSE's staff hostility to contacts from custodial parents, and their corresponding failure to elicit information from the custodial parent through interviews or other personal contacts,

(6) OSE's failure to provide custodial parents with information about the $50 pass through payments authorized by §457(b)(1) of the Social Security Act and

(7) OSE's failure to pay non-AFDC custodial parents the full amount of child support owed for arrears accrued after they stopped receiving AFDC when support is collected in amounts exceeding the current month's obligation.

I will address these barriers and Washington's compliance with the Child Support Enforcement Amendments of 1984 in the context of our low income clients' experiences with OSE. These barriers have prevented families from relying on payment of support to meet their basic needs.

The impact of these barriers has further lead to litigation in Washington challenging the distribution systems for support collected by OSE. One court case involves AFDC recipients seeking to obtain the full benefit of the $50 pass through payments in Vanscoter, et. al. v. Bowen and Sugarman, U.S.D.C. W. WA C86-1568 (filed October 2, 1986, decision pending). Another case concerns recipients of non-assistance support enforcement services who seek to receive payment of all support collected by the State after they terminate from AFDC, in order to satisfy the family's post-AFDC arrears before the money can be used to satisfy the State's AFDC debt. (Mullen, et. al. v. Sugarman, Thurston County Superior Court No. 87-2-02413-7, filed Dec. 11, 1987). The legal disputes in these cases result primarily from OSE's failure to fully implement the remedies available under the Child Support Enforcement Amendments of 1984.[9]

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[9] For example, as will be discussed, Vanscoter challenges HHS' implementation of the $50 pass through provision of §457 of the Social Security Act, which prohibits the states from paying a pass through to AFDC recipients when more than one month's support obligation is received by the state IV-D agency in any given month, even if the money was paid timely, but some delay in transmission occurred. Thus, if the employer has withheld wages but delays transmission of the money until a later month, the AFDC family does not receive the $50 pass through. If OSE had mandatory wage withholdings in place and a delinquency control system to monitor the employer's failure to remit payments so as

## II. WASHINGTON STATE'S FAILURE TO UTILIZE INTRA-STATE WAGE WITHHOLDING AND OTHER COLLECTION REMEDIES AVAILABLE UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RESULTS IN LOWER COLLECTIONS AND UNREASONABLE AND UNNECESSARY DELAYS.

Though Washington has implemented a mandatory wage withholding system to collect delinquent support (RCW 784.20A.080, RCW 26.09.135) problems with the utilization of these procedures continue to exist. Traditionally, Washington's OSE has used a procedure called an Order to Withhold and Deliver, which compels payment by an employer of 50% of the employee's net earnings to satisfy a support debt. Once the Order issues, and earnings are withheld, typically the support debtor contacts OSE to negotiate a wage assignment in an amount less than 50% of the earnings. As a result, OSE has come to rely on the procedure as a device for negotiating a voluntary wage assignment for amounts lower than the mandatory order to withhold and deliver, rather than as an effective enforcement tool.

Further, under Washington's procedure the mandatory withholding order terminates as soon as an arrearage is brought current[10], in violation of 45 C.F.R. §303.100(a)(9). Frequently, support debtors are able to evade the support enforcement mechanisms for considerable periods of time. They pay off the arrearage only once the Order to Withhold and Deliver is finally issued. Once the arrearage is paid, OSE must start the process all over again before any further mandatory wage withholding occurs.

In the case of one Evergreen Legal Services client, the absent parent owed support of $200 per month. He fell one payment behind and OSE issued an Order to Withhold and Deliver claiming only the back due amount of $200 and made no reference to the continuing monthly obligation. The absent parent paid the $200 claimed, but failed to pay support the following month. OSE had to start the collection process all over again, and the family's receipt of support was unnecessarily delayed. Hopefully, this problem will be resolved once the Central Support Registry, created by the State Legislature in 1987, RCW 26.23, effective January 1, 1988, is fully implemented.[11]

Moreover, the Washington OSE tends to utilize only one collection method at a time to the exclusion of other collection

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to ensure payments are received on a regular monthly basis, the dispute would not have arisen. The same is true with respect to delays by court clerks or other states' IV-D agencies in transmitting collections to Washington's IV-D agency.

Similarly, in *Mullen*, the failure to require automatic wage withholding and the lack of a delinquency control system results in irregular collection of timely paid payments, particularly in interstate cases. Washington's present distribution system, which applies HHS's mandate to divide amounts collected into current support and all arrears, results in a loss of delayed support to families recently terminated from AFDC.

[10]. Washington State Office of Support Enforcement Manual (Rev. 6/86), Chapter 5.50 at 5-18 (Form 9-285)

[11]. Washington Laws of 1987, Chapter 435, creates a Central Registry through which all future support payments will be required to be made upon entry of future orders establishing a support obligation, and whenever pre-existing support orders become delinquent. Continuing mandatory wage withholding mechanisms are contemplated as part of the Central Registry system.

methods, with the exception of the federal income tax intercept, which is routinely used in all outstanding debt cases. Therefore, if a voluntary wage assignment is negotiated, OSE will not foreclose on property liens, garnish bank accounts, or take other appropriate steps to collect on an outstanding debt. Few standards exist to guide OSE staff on what collection method is most appropriate in any given case. Though OSE frequently imposes liens whenever a support debtor has real property in Washington, OSE rarely, if ever, forecloses on a support lien.

Wage withholding procedures are also hampered by the fact that OSE fails to utilize all available resources to locate the absent parents, including personal contact with the custodial parent. OSE relies almost completely on the IV-A referrals received in AFDC cases, and on computer records maintained by the Employment Security Department.[12] In fact, HHS cited OSE's failure to make follow up contacts to elicit sufficient information from custodial parents or to reactivate stale cases as cause for its low efficiency rating in cases needing paternity established.[13] The same failure to reactivate cases deemed "uncollectible" or to seek follow up information from custodial parents hampers the entire support enforcement system in Washington.[14]

Washington's almost total reliance on the Employment Security computer system for locating absent parents results in a constant cycle of outdated information. This occurs because employers are only required to report employee information to Employment Security on a quarterly basis. Since OSE utilizes an automated tape matching process, when it learns of a delinquent support debt, Employment Security will only be able to match names that are reflected in the last quarter's reports. Thus, if the support debtor changes jobs frequently as occurs in the construction trade or other seasonal employment, his employment information will be outdated by the time OSE receives it.[15]

This further results in OSE's over-reliance on unemployment compensation benefits as a primary source of support collections. Because of the easy access to unemployment compensation benefits, OSE tends to "work" cases where the absent parent is receiving UIC benefits more readily than cases where the absent parent is employed or self-employed, but harder to find and whose assets are harder to access. As a result OSE targets those absent parents who are least able to pay support, while fully employed obligors are left alone.

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[12]. See Progress Report to the Legislature Submitted by Jule M. Sugarman, Secretary, Department of Social and Health Services and Isiah Turner, Commissioner Employment Security Department, 1987 at 3.

[13]. Audit Report on the Program Results Audit of the State of Washington Child Support Enforcement Program, October 1, 1984-September 30, 1984, Report No. WA 84-PR (July 25, 1986) at 17-19).

[14]. For example, in the case of one AFDC client, OSE deemed the support obligation "uncollectible" based upon old information that the absent parent was in a drug rehabilitation program, when in fact he was working and contacted the client's attorney to ask where he should be directing his $175 per month payments so that the client and her child could receive the $50 pass through payments.

[15]. See n. 11 supra at 2-3.

## III. FAILURE TO UTILIZE INTERSTATE WAGE WITHHOLDING PROCEDURES PREVENTS COLLECTION FROM THOSE MOST ABLE TO PAY, AND CREATES HARDSHIPS FOR LOW INCOME FAMILIES

**Typically, and for reasons not apparent to this witness, Washington's OSE generally opts for interstate collection under the URESA process, even when support orders already exist and the absent parent's employment is verifiable. For example, in one client's situation, there is a monthly support and maintenance order of $1,000 ($800 child support, $200 maintenance), with $9400 in arrears. The absent parent is an insurance company vice president in California and his employment has been reported to OSE by the custodial parent, who is being supported by AFDC. The custodial parent also provided OSE with the California address from where the absent parent's paycheck is issued. OSE has failed to initiate wage withholding. If the family received the monthly support it would not be in need of AFDC. Evergreen Legal Services has requested that the Region X Office of Child Support Enforcement of HHS address Washington's failure to utilize interstate wage withholding procedures in appropriate cases as part of its 1988 audit of OSE.**

### a. Failure to Use Interstate Wage Withholding Frustrates the Distribution System Contemplated by Congress.

HHS has determined by administrative fiat that all support amounts collected are to be defined as either "current support" or "arrears" depending upon the date the money is actually received by the IV-D agency of the state in which the family for whom support is collected resides. 42 C.F.R. 302.51(a). HHS allows the state to keep any amount collected in excess of the current month's obligation as reimbursement for AFDC previously paid to the family, even if the family is not presently receiving AFDC. 45 C.F.R. 302.51(b)(4). No statutory authority exists for this rule. If more than one month's support is received in a given month, the state must disburse to the family the amount representing the current month's support obligation and need not disburse amounts representing support for months after the family stopped receiving AFDC. Thus, the family may never receive payment on the arrears accrued since the family terminated from AFDC.

Under this distribution system, the failure to utilize direct interstate wage withholding results in real loss to the family in non-AFDC cases, even when support is actually paid by the absent parent, but an out-of-state court clerk or IV-D agency acts as the conduit for payment to OSE. If there is any delay in transmission, the payment received from the court clerk or sister state IV-D agency includes several month's worth of support payments; under Washington's application of the "date of receipt" rule in 45 C.F.R. 302.51(a), amounts in excess of the current obligation are applied to reimburse the State for AFDC previously paid to the family.

For example, in the case of one non-AFDC client, a California court clerk remitted $1600 to OSE in June, 1987, representing payments received from the absent parent's employer withheld in previous months. The family received no payments on the $300 monthly obligation for January, February and March. When the money was received in June, OSE distributed $300 to the family and kept the remainder to reimburse AFDC paid to the family at an earlier time.

Similarly, in the case of Juanita Mullen, she terminated herself and her two children from AFDC in July, 1987, on the understanding that OSE was collecting monthly support payments. With the child support and income from her part-time job she could become self-sufficient. Unfortunately, OSE did not receive the support payment in August, 1987, because the court clerk to whom the support had been paid erred in processing the payment. OSE received the value of two payments in September, but refused to pay Ms. Mullen any amount in excess of September's obligation, retaining the amount representing the August payment for reimbursement of AFDC. The Mullen family lost the August payment and suffered severe hardship, including a threatened utility shut off.

Regular payments made through an interstate wage withholding system would have enabled the family to receive the payments as they came due and thereby prevented their impoverishment. Additionally, Congress should review the provisions of 45 C.F.R. 302.51(a) and (b), and mandate that all post-AFDC arrears owed to the family shall be satisfied before the states are entitled to reimbursement from amounts collected after the family stops receiving AFDC. Congress' elimination of the five month transition period in the Budget Reconciliation Act of 1987, Part 3, Section 9141[16] may further exacerbate the plight of the poor struggling to remain off of AFDC.

**b. The URESA process often results in confusion over the amount of the support obligation or unwarranted contests over custody or visitation with the children.**

The URESA process is a dangerous alternative in cases where support orders already exist. URESA proceedings involve judicial actions to enforce a sister-state's support order. Frequently, because an absent parent may be willing to negotiate a settlement of the proceedings, the enforcing state will obtain a court order which is less than the existing order. Confusion is inevitable. Payment on the URESA order does not forfeit the excess owed under the existing order and the family does not receive the immediate benefits of amounts owed and accruing under the first order.

Custodial parents are generally kept uninformed of URESA actions in other states, and are not represented in those proceedings, but are bound by any resulting court order. In one client's case, the URESA court in another state awarded the absent parent specific visitation with the children superceding the visitation requirements of the original order, without the client's knowledge or participation in the proceeding. URESA actions should be expressly limited to establishment of support obligations where none exist, and enforcement of existing obligations. Custody and visitation disputes should not be allowed to be resolved in the context of URESA actions.

**c. Additional interstate enforcement remedies are needed to capture lottery winnings.**

Several states now have lotteries. An interstate lottery intercept system may be one additional remedy that would be easy for the State IV-D agencies to access. In one client's case, the absent parent recently won $1 million dollars in the Arizona lottery. He receives annual payments of $80,000. She has been able to verify the winnings. Despite our client's requests, the Washington OSE has failed to take any action to collect the support owed to her. Automated and mandatory intercept systems for lottery winnings would be effective, at least in those few cases in which winnings occur.

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[16] **See, 133 Congressional Record, No. 205 - Part III (Dec. 21, 1987), at H 12196 and 12333. The Budget Reconciliation Act amendment affects the distribution scheme previously mandated by §457(c) for the five month period after a family terminates from AFDC, which required that all support collected representing amounts owed for this five month period be paid to the family.**

## V. THE LACK OF AN EFFECTIVE DELINQUENCY CONTROL SYSTEM PREVENTS REGULAR MONTHLY COLLECTIONS AND DEPRIVES AFDC FAMILIES OF THE BENEFIT OF THE $50 PASS THROUGH PAYMENTS REQUIRED BY § 457(b)(1) OF THE SOCIAL SECURITY ACT

As previously indicated, the lack of an automated delinquency control system is a major problem in Washington and a barrier to effective enforcement. Unless the custodial parent affirmatively contacts OSE about the non-receipt of child support or the lack of a $50 pass through payment in AFDC cases, OSE has no way of knowing whether employers subject to mandatory wage withholding, court clerks who are collecting support under court orders, other state's IV-D agencies, or absent parents who pay directly to OSE, are in fact paying on a regular monthly basis.

The custodial parent's contact is the usual trigger for follow up action by OSE. When OSE is contacted about non-receipt of support by the custodial parent, it generally takes several days before contacts with the employer, court clerk, sister state IV-D agency or absent parent are accomplished. It may take several contacts from the custodial parent, before OSE initiates follow up action with the payor. As one OSE administrator stated in deposition testimony, the custodial parent who screams the loudest and hardest gets staff attention, while the meek are left bedraggled and confused.

Thus, the $50 pass through payment serves not only as an incentive for AFDC recipients to assist in support collection, but also as a trigger for the recipient's contact to OSE when the $50 is not received. Moreover, the $50 pass through payments do serve as a true incentive for AFDC recipients to cooperate with OSE and seek self-sufficiency. The same OSE administrator indicated in deposition testimony that prior to the $50 pass through payments, OSE rarely heard from AFDC recipients. Since the pass through was created, there has been a substantial increase in contact from AFDC recipients. Unfortunately, Washington's OSE tends to view these contacts as intrusive and annoying, taking away from the time needed for collection activity. Hence, OSE staff are very hostile to AFDC recipients' efforts to get information about their support claims. OSE has failed to make the attitudinal adjustment required by the Child Support Enforcement Amendments of 1984 and perceives itself strictly as a collection agency for the State, rather than as a provider of income producing services for children in need.

Prior to the $50 pass through AFDC recipients had no way of knowing whether child support was being collected by the State, and thus could not plan for their financial future without AFDC. States have not traditionally provided AFDC recipients with notice of amounts collected in their behalf[17]. The $50 pass through payments provide AFDC recipients knowledge of the fact that support is being collected. In the case of our client Juanita Mullen, because she had been receiving the $50 pass through payments regularly, she knew that support was being collected each month. She determined that with her part-time job and child support she could support herself and child without AFDC. Absent receipt of the $50 payments, and knowledge of the collections, she would have been unable to plan for a future without AFDC.

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[17] Until 1987, Washington failed to provide to AFDC recipients the annual notice of support collected required by 45 C.F.R. §302.54. Both Vanscoter and Mullen claim that notice of the amounts collected and how the amounts have been distributed as between the family and the State are required by due process and necessary for families to be able to make plans with respect to their future need for AFDC.

Further, the $50 pass through is an important benefit to AFDC families, who in Washington receive grant amounts that are about 60% of the need standard. For a family of three, the $50 payments increase their income by about 10%. HHS' failure to allow payment of the pass through for each month represented by the amounts received, even if not collected in the precise calendar month represented by the payment, is arbitrary, unfair, and harmful to families that rely on receipt of the $50 payments. No justification exists for non-payment of the pass through solely due to employer, court clerk, other IV-D agency, or postal delays in transmission, particularly when the IV-D agency itself has failed to fully utilize mandatory wage withholding procedures or to implement an effective delinquency control system.

## VI. CONCLUSIONS AND RECOMMENDATIONS

The goal of both the AFDC and child support enforcement systems is to promote and ensure self-sufficiency for families. Notwithstanding these expressed goals, the AFDC caseloads in Washington have increased annually, while child support collections have not kept pace with AFDC caseload growth. The failures of the child support enforcement system in Washington may be attributable to high staff/caseload ratios, the lack of resources for monitoring employer/court clerk transmission of moneys withheld or received from the absent parent, and the failure to devote resources to developing automated delinquency control systems. Congress must be willing to continue to fund the necessary mechanisms for ensuring full enforcement.

Child support can be a viable source of support for poor children. Effective collection systems rely upon aggressive action by state IV-D agencies, cooperation among all accountable entities, and communication with the families for whom support is collected. The traditional orientation of IV-D agencies toward revenue collection and reimbursement of the state for AFDC does not further the Congressional goals underlying the Child Support Enforcement Amendments of 1984. Non-assistance support enforcement services have suffered from relegation to a secondary function of the agency, while AFDC reimbursement remains the first priority. Only when custodial parents affirmatively demand staff time do they receive staff attention. AFDC recipients have traditionally had no contact with or involvement in the support enforcement process, other than assigning the support obligation and providing absent parent information to the IV-A agency. Congress should strengthen the expressed goals of the Child Support Enforcement Amendments of 1984 to induce the neccessary attitudinal orientation to the family's support needs.

Many clients are told that their case is "low priority" because the absent parent cannot be located or is not a wage earner, or that "there is nothing we can do if the employer does not send the money in on time", or "you did not receive a $50 pass through last month because the payment was late." Most of these problems could be resolved by proper automated delinquency control systems in cases where payment is, is fact, being made through wage withholding, court clerks, IV-D agencies, or directly by the absent parent. The "locate" problems could largely be addressed by using sources of information available to the IV-D agencies other than state employment records, such as credit reports, licensing records (drivers and business), and personal interviews with custodial parents and others who may have information about the absent parent.

Interstate collections could be aided by legislation making the interstate wage withholding process mandatory on all states, setting specific time limits for accomplishing the wage withholding after the date of referral from either the IV-A agency or the custodial parent, and making wage withholding the preferred procedure over URESA in cases where the absent parent is employed and a support obligation has already been established.

Finally, the distribution system in §457(b) and (c) of the Social Security Act should expressly require that (1) in AFDC cases a $50 pass through should be made and disregarded under §402(a)(8)(a)(vi) for each month represented by the amounts collected, and that (2) in post-AFDC cases, the full amount of post-AFDC arrears must be paid to the family from post-AFDC collections before the state retains any amounts as reimbursement for past AFDC.

Dated: February 23, 1988

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Acting Chairman Downey. Thank you.

Ms. Reichler.

## STATEMENT OF JUDITH M. REICHLER, ESQ., DIRECTOR, NEW YORK STATE COMMISSION ON CHILD SUPPORT

Ms. Reichler. Thank you.

Mr. Chairman, since I may vary from my written testimony somewhat, may I request that it be entered in its entirety?

Acting Chairman Downey. Absolutely. Without objection, your written statement will be made a part of the record.

Ms. Reichler. Thank you. I'm also glad to see that you're still here because of your remark earlier.

Acting Chairman Downey. I'm not going to be in 5 minutes though.

Ms. Reichler. Then I am going, if I may, to spend the next 2 minutes making some suggestions for you.

Acting Chairman Downey. Please.

Ms. Reichler. I'm Judith Reichler, and I'm the director of the New York Commission on Child Support, a commission that the Governor of New York not only set up but has extended for this 3-year period.

Governor Cuomo has a great commitment to the child support area. He has not only extended the commission and charged us with helping to get legislation passed and monitoring the new programs, but he has introduced legislation and is pressing child support guidelines.

I do think, though, that you're correct that there is a problem of getting incentives and support from the top levels. And I think that in the case of New York, we're talking about the judiciary system and the resources that are committed by the department of social services to the child support program. And if I could suggest anything to you, that might be something you might want to discuss with him.

The weak link in New York State truly is the judicial system. You talked before about why is it taking so long for the States to get the 1984 amendments into play, and I do think, as Diane Dodson pointed out, that most States are adhering to the letter of the amendments. In New York we've had many of those enforcement tools available for quite a long time, but they haven't been used and they're still not being fully used.

I would say that the income withholding happens to be going very well. We're fully automated. They go out right away from the agencies. Once the cases hit the courts, though, if they do, it's a whole different ball game.

Within the agency, as long as it's a routine matter, such as income withholding or tax intercept, I think our agency is doing a good job. When it comes to any esoteric case at all that requires an undertaking, security deposit, that kind of thing, they don't have the attorney staff; they simply have not committed their resources. And I would expect that's true across the country, not just in New York.

I do think that now that we've made some improvements, we need to turn our attention further to the inadequacy of the child support orders and unraveling the terrible tangle that happens when a case involves itself in an interstate case.

With this in mind, I'd like to make a few recommendations to the committee. One is that the guidelines be required to be placed in statute and that they not just be allowed to be in judicial rules or in regulations. They not only don't have the force of law in those areas, as you know, but there's not ready access to that information by the public. It does, of course, provide guidance to the court if they're there. But it will only be an occasional attorney that would even know about it, and certainly the people that we hope are being able to litigate their cases on a pro se basis will have no clue really and no place to find the guidelines for child support.

This leads me also to suggest that you look into requiring States to allow for the appointment of counsel to indigent petitioners in child support matters, at least where the respondent is entitled to an attorney.

In New York State, respondents are entitled to attorneys in enforcement proceedings. The petitioner is never entitled to an attorney in a child support matter in New York State. And I think in many other States it's a similar situation.

I would think at the very least where a respondent is entitled to an attorney, the petitioner is at a tremendous disadvantage by not having a similar ability to litigate the case.

I also would suggest that if further legislation comes about with regard to guidelines, that they be required to be a rebuttable presumption. And I know several States have done that in their guidelines. New York State has not adopted what I consider a good guidelines bill yet. We comply with the Federal requirement with a very old formula that we had in place.

But the one we're proposing would create a rebuttable presumption and those that do require the judge to put the reasons in writing for varying from the guidelines. What that does is put the burden squarely on the shoulders of the person who has the financial information, who probably has a greater ability to litigate and, in many cases, has the attorney.

Acting Chairman DOWNEY. The guidelines are in H.R. 1720, in the bill passed by the House.

Ms. REICHLER. Then I'll move on. I don't believe that guidelines are required to be used to modify existing orders. And I do think that is a great difficulty. We have had people come forward in the last 5 or 6 years, as you know, telling us how desperately they needed higher orders, and we certainly know from the ADC reimbursement figures how desperately we need them.

We are letting those people hang when we make guidelines that apply only to current orders. And the guidelines that I've seen rarely do apply to modify old orders. We have a big lobby, of course, in New York State of private attorneys who desperately want guidelines not to affect old orders. And I would suggest that we may make an exception to cases where both people have been represented by attorneys. But to not let the guidelines be used for modification leaves those people to hang.

With regard to enforcement, automatic income withholding needs to be required without waiting for default, I think goes without saying that's an absolute must.

Another thing I'd like to suggest. We talked before about informing the credit agencies and trying to find ways to deal with the self-employed. I have worked for 3 or 4 years in this area, and I still can't grasp the reason why people go to such enormous lengths to avoid taking care of their children and supporting them. But the sad fact of the matter is they do often. Informing the credit agency of an arrears in child support, I think is potentially a very important tool for the self-employed. I don't think it's been utilized, and I do think we could require the IV-D agencies to inform the credit bureau, not just allow them to inform if they're requested.

As it is now, it's going to be several years before companies get burned and realize that child support orders are now priority over their own judgments, and they're going to want to inquire. I think the credit agencies need to know that, whether they want to know it or not, at this point. And that it will help them determine who they should give credit to and who they shouldn't.

Lastly, with regard to—actually penultimately with regard to interstate recommendations. We talk about location, location, location, in real estate. We need to talk about federalize, federalize, federalize in this area, particularly where you have the possibility of an income withholding.

I think it's not enough for a State to establish a clearinghouse. I think that it would be far better if there could be a Federal clearinghouse where enforcement requests could be made, because they would have the ability to know what, in addition to the State clearinghouses, they'd have the ability to contact the State clearinghouses.

Right now, every single worker in every single county in every single IV-D agency has to have the name and address of every single county of every State in this country, and hope that the names and addresses are correct. This is the way this miracle is performed of getting interstate orders enforced. At the very least, it would be preferable for those types of enforcement cases.

I'm not talking about establishment of order now. I think that's a totally different matter. But if there were some way that that could be handled on a Federal basis where pressure could be put on the locals to perform from a Federal agency, that we would be in far better shape. And I would request that you review that possibility.

We had talked before about the DA bringing cases on the low priority. There is no question, it is not only either the dumping ground or the training ground for attorneys. It is both the dumping ground and the training area for attorneys. I think it would be a help if every State could be required to have a statute in place, making a willful failure to support the child a crime, and that there have to be a statute allowing the Governor of a State to extradite a person to another State who has been charged with a crime in that State, and that the State be encouraged to use those statutes.

I would join in urging you to review the $50 disregard interpretation. It is critically important to an AFDC person that their benefit not be lost because it happens to be a day late or into arrears, or because it happens to be an interstate matter. The date of receipt is all important. And if the date of receipt isn't until the date it's received in the responding State, of course, there is almost no chance at all that a $50 disregard would occur.

And you know, of course, that there is no incentive on the State's part to make certain that the $50 disregard is available. There is, on the contrary, every incentive to disregard the $50 disregard. And I don't know what to suggest as an incentive, but certainly something should be available. And I have two other recommendations.

One is, as you know, there's a cap on reimbursement for the States for their non-AFDC collections. I believe this year it's up to 105 percent of the AFDC collections. And I would recommend that you review that with a view to abolishing the cap altogether. It does provide a disincentive to staffing up to collect for non-AFDC cases.

And lastly, Bob Harris mentioned that there's a $350 million net profit to the States. The agencies make money, this is a profitmaking venture. I think because it's handled in a State by the types of people it's handled, they don't have profit motives in mind. I think that it would be helpful to look at this as if it were a profit making organization in terms of streamlining, in terms of maximizing profit and minimizing expenses, of staffing up in a way that it will do that.

And I would suggest that, in reviewing how the agencies perform, that it might be helpful to get in somebody who could do that, and also that you review the possibility of recommending to States that they not turn their money over to the General Treasury, but that a certain percentage of the money they receive as reimbursement go back to aid the child support program in some way. I'm not saying that you would want to suggest what way that could be. But certainly it would be a profit motive in a sense. If an agency could do better next year directly related to how well it did this year.

And I thank you very much for your time.

[The statement of Ms. Reichler follows:]

STATEMENT OF JUDITH M. REICHLER, ESQ., DIRECTOR, NEW YORK STATE COMMISSION ON CHILD SUPPORT

My name is Judith Reichler. I am an attorney and director of the New York State Commission on Child Support. I am also the author of several articles on child support enforcement and the establishment and enforcement of interstate child support orders, as well as a frequent lecturer on the development of child support guidelines.

It is a privilege to join you today and to share with you some of my observations and suggestions.

First, let me tell you what you have heard many times, and that is: What a revolutionary change has been brought about in this country by the 1984 child support amendments. They have helped make the timid powerful and the recalcitrant supple. They have slammed in the face of a judicial system intoxicated by bias against women and the poor and a belief that it's all right for parents not to provide support for their children because "welfare will take care of them."

You know collections are up now and child support orders are no longer the joke they were several years ago. And you know that is due, in large part, to the enactment of laws allowing for interception of federal and state income tax refunds and for the withholding of income without having to return to court.

These remedies are doing their job for the most ordinary of cases, but we now need to turn our attention to the dreadful inadequacy of child support orders and to enforcement against the more difficult self-employed parent. And we must find a way to unravel the tangle a case lands in if it involves two states. We can also do much to make child support a more natural obligation for those parents who do have regular jobs and an even more reliable source of support for our children.

## CHILD SUPPORT GUIDELINES

We have good reason to believe that child support orders will be made both more adequate and more equitable through the use of numerical guidelines. That is why the states were required to establish these guidelines by the 1984 amendments. Unfortunately, however, many of the guidelines I have seen are sadly lacking in uniformity, only provide guidance for the court and are riddled with political compromises pressed upon the drafters by persons who did not necessarily have the interests of children in mind.

Furthermore, many of the guidelines do not apply to orders that have been obtained in the past -- before the emphasis was placed on the importance of child support and before the economic information we now have became available. This leaves stranded all those persons who came forward over the past several years to tell us how desperate they have become because of the low orders they have received. As Robert Williams has pointed out in his report on child support guidelines, the combination of low orders, coupled with the inability to modify, is particularly lethal.

It is with these concerns in mind that I recommend the following:

1. Require statutory guidelines, to which the public has ready access.

Guidelines that are set forth in administrative regulations or in judicial rules neither have the force of law nor are available to persons who would like to negotiate or litigate the case themselves. This does a great disservice to these people and has the effect of perpetuating the situation we have right now, where people make all kinds of agreements with no knowledge whatsoever of what it takes to take care of a child, how much money should be available to the child or what the court is likely to award.

2. Require the creation of a rebuttable presumption that the amount indicated by the guidelines is appropriate.

As you know, several states have created rebuttable presumptions in their guidelines. This places the burden squarely where it should be: on the person most likely to have the financial information and even most likely to have an attorney and/or better bargaining and litigating skills. It places the burden on the respondent to prove by competent evidence that the amount indicated is improper.

In doing this, it is important to also require the judge (or hearing officer) to state, in writing, the evidence presented and the reasons for varying from the indicated amount.

3. Require guidelines to be used as a basis for the modification of existing orders.

This is the only way we can adequately provide for the thousands of children who have been subject to abysmally low orders and would otherwise have to prove a change of circumstances. This is the best way to provide for all those who came forward to tell us their orders are so low and that they have been unable to obtain upward modifications.

The amount indicated by utilization of guidelines should be used to determine whether or not a modification is required -- at least if the new amount is significantly greater or less than the amount of the existing order. An exception to this might be made where both parties had been represented by attorneys at a hearing or during negotiation of an agreement containing provisions for spousal maintenance and/or property distribution which may have been intended to replace some of the child support.

4. Limit discretion to the exceptional case.

Reluctance by state legislators and powerful resistance from established matrimonial attorneys who may see guidelines as eating into their practice has watered down the guidelines in some states to the point where there is so much discretion that it sorely resembles the old system.

Although all the custodial parents we have spoken with want child support guidelines that will limit the court's discretion, the opponents to guidelines appear to be even more passionate in their opposition. These parents are still dreadfully concerned with enforcing the small orders they do have, so they may not be making their need for strong guidelines perfectly known.

In spite of the strong evidence of an increase in enforcement, we have only touched the tip. The fact is that most parents with child support orders still cannot enforce them. This is still their major concern even though they know the amounts are piddling. It is important not to let ourselves be swayed against strong guidelines by the few powerful voices, and forget the many, voiceless persons who are so desperately struggling, still, to enforce what we now know to be recklessly insufficient orders.

## ENFORCEMENT

1. Automatic income withholding should be required at the time a child support order is established, without the need to wait for a default.

The availability of income withholding without having to return to court has provided an extraordinary means of collecting child support because it bypassed a judicial system which was slow and reluctant to do anything to stigmatize the defaulting debtor, even at the risk of depriving a child of needed support.

As it works better and better, however, and as more and more people are subject to its effects, the real stigma could appear to be the fact that a person must be in default if wages are being withheld. If everyone with a support order had wages withheld -- without the necessity for a default -- that stigma would be totally removed.

Furthermore, by the time one waits for a default, and then waits for the full requirements of due process, several critical months may have passed -- months when the family may have to turn to public assistance for support. This is particularly sad when, so often, the only reason an objection is raised is that the debtor does not understand what is happening.

So we see that, if all goes smoothly and no objection is raised, it will be at least two months before support will be coming in. If an objection is raised -- the wait could approach several months. This is all complicated, as well, by the very real possibility that the respondent cannot be easily found, some time having passed since the establishment of the order.

All this could be eliminated if a wage deduction order were given at the time of the order -- at a time when all parties are present and the purpose and procedures can be fully explained. The savings in court time will be immense, the added public assistance reimbursement could be appreciable, and I do not need to repeat what the effect will be on the custodial parent and the children.

2. The IV-D agency should be required to inform credit agencies when there is an accumulation of $500 or more in arrears.

Although we now have a provision allowing the agency to provide information on such arrears, if requested by a credit agency, it would considerably help enforce child support against the self-employed if agencies which give credit were routinely informed of defaults in child support.

I believe the granting of priority over wages and other income to collect child support will have a tremendous impact on companies which make installment sales or others who want to collect on money judgments through wage garnishment. I do think, however, that it will take several years before the full impact of this is felt. A company will learn very quickly -- after getting burned -- that it will make a difference in their collection ability whether or not the person to whom they give credit is current in child support. This may take some time, though, and the credit agency may not be certain where to obtain that information.

Far more effective would be to require the IV-D agency to report delinquencies of $500 or more so that information will appear in the records of someone seeking to obtain credit. This is one fairly painless way of reaching the self-employed -- at least those who wish to borrow or buy something on credit.

## INTERSTATE RECOMMENDATIONS

1. Federalize, federalize, federalize. Create a central, federal clearinghouse for interstate enforcement cases.

It is a miracle that anyone ever collects when the parents live in different states. It is difficult enough that two courts and at least two agencies get into the act. But each state has an entirely different procedure -- first to the court, and then to the local IV-D agency; or first to the state IV-D agency, then to the local agency, then to the court; or all done in the court; or some other permutation altogether. Is it the attorney general who handles this; or the district attorney; or the county attorney; or the court; or the agency itself? Does anyone keep track of the status of the case so it can be found? If so (and this is not always the case), who is it?

In each county of each state, each office has a large book (probably inaccurate and outdated!) which tells them what to do if the debtor lives in any state (and perhaps any county). They have to look this up, follow it and pray it resembles the path they need to take.

To be sure, the federal office of child support enforcement will be requiring each state to establish a central clearinghouse to keep track of cases once they reach their state. This is a great step in the right direction. This narrows the information that needs to be kept in each county to the name and address of only 50 or so state clearinghouses.

Not good enough, however. It would be far preferable, both from a procedural point of view and from a supervisory standpoint, for all interstate enforcement requests to be sent to a central federal registry, which would then route it to the proper state clearinghouse, keep track of the case and apply the necessary pressure to a local agency if a case doesn't move fast enough.

The establishment of support orders can continue to be handled, through the URESA statutes, by the local and state agencies.

2. Federal income tax interception and interstate income withholding -- particularly if begun when the order is issued, and not dependent upon a default -- should be issued from a central location.

The procedures for interstate income withholding are so complicated now that few are being done, unless a state has worked out an acceptable arrangement, and developed an understanding, with a neighboring state or another state where there is particularly heavy traffic.

The income tax interceptions are already being handled by a central agency, for the most part. If income withholding were part of the initial order, it would probably be easier to accomplish this from a central, federal agency if the parties live in different states. The central office would have access to all the idiosyncracies of each state's income withholding law and be able to conduct search activities on a nationwide basis without waiting for a specific request to do so.

3. Each state should be required to have in place a statute imposing a criminal penalty against a parent found to be in willful violation of a child support order and a statute which allows the governor of one state to extradite a person charged with violation of another state's criminal statute.

Many states have statutes making it a criminal offense (at least a misdemeanor) to willfully fail to support a child, but it is taken seriously in very few. I am preparing a book which will contain summaries of all the significant child support cases in New York state over the last five or six years, and I have run across only one case where the district attorney even attempted to charge a person with criminal nonpayment of child support. Even though it was brought simultaneously against several defendants, the district attorney was practically laughed out of court.

It appears that the reluctance of district attorneys to devote resources to such matters -- coupled with an aversion to imposing a penalty and a finding of criminal culpability against someone who has only failed to support his or her child -- makes this a very impotent tool.

As David Chambers found, however, people pay who know they are watched and who risk a jail term.[1] It is sad to think this is necessary, but we all know the tremendous lengths some people will travel -- and the amount of money they will spend -- to avoid paying child support. States should be required to have such laws and encouraged to apply them.

6. Federal law -- 42 U.S.C. 602(a)(8)(A) and 42 U.S.C. 657(b)(1) -- should be amended to allow for support payment to be considered received, for the purposes of determining whether or not it is "current," on the date the payment reaches the agency in a responding state, not the date it is received by the initiating state.

In addition, a penalty should be imposed on an agency which does not forward support payments to the responding state within 10 days of receipt.

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[1] Chambers, David L., Making Fathers Pay: The Enforcement of Child Support, The University of Chicago Press (1979).

As you know, the first $50 collected of current monthly support is passed through to a custodial parent who is receiving AFDC benefits, even though the balance is retained by the agency. Although I understand steps are being taken to assure that the "receipt" date is the date upon which it is received by the agency and not the date of transmittal, it is critically important to the AFDC recipient that this benefit not be lost because the absent parent is in another state.

## ADDITIONAL RECOMMENDATION

The money received by the states as reimbursement for IV-D expenditures should not be returned to the general treasury, but the agency should be allowed to retain a certain percentage of the reimbursement in order to improve its operations and expand its staff.

The IV-D agencies make money. I don't think, until recently, that many states realized what a profit potential there is out there -- both because of increased reimbursement for AFDC expenditures and because of a decline in AFDC roles because of the receipt of child support. Many of us only suspected that increased services for the non-AFDC population would eliminate the need for many families to turn to public assistance. This is actually turning out to be true. We are beginning to get evidence that the public assistance roles are declining in some counties as the AFDC parent is able, reliably, to close a case and as the non-AFDC population is able to remain out of poverty because of the IV-D services provided.

Because this "profit" is being made by persons who work in state and county agencies, where profit on an endeavor is a nonsequitur, the programs often are not run like businesses. Money that is received as reimbursement for child support services is usually returned to the general treasury and considered a "windfall." It would be far better if an agency could improve its image, improve its advertising campaign, improve its facilities, and increase its services based upon the profit brought in.

Instead, in many instances, the money is being used by the general treasury and is not being used to place increased emphasis on the IV-D agency or to enhance its ability to take on the additional load of assisting the many non-AFDC parents who have come forward. It is not being used to change the configuration of the IV-D staff to accommodate the more difficult cases that are left in the office.

Both because of the increased services to non-AFDC clients and because the "easy" cases are handled through income withholding and income tax interception, the cases remaining in the office often require the services of an attorney, and sometimes an investigator, to locate the absent parent or hidden income. The local agencies need sufficient staff, and the personnel which can maximize services. This will happen only if additional funds are made available, which could be obtained if the state turned some of the federal reimbursement back to the IV-D agency.

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Acting Chairman **Downey**. First, let me thank all of you for your valuable testimony. This is a painful revelation to those of us who don't deal with this issue every day, and one that I guarantee will not go without some attention and possibly some action.

Commissioner Reichler, let me just read you some statistics about New York before I go off to talk to my Governor because I suspect it's going to be something of an embarrassment to the two chairmen of the relative committees, one in the House and the other in the Senate, we're both from New York, to find out that the 1985–86, the average number of AFDC cases in which a child support collection was made in New York declined.

New York's child support program resulted in fewer AFDC families being removed from welfare in 1986 than in 1985. New York recovers only 4.3 percent of its AFDC payments through child support presents. Michigan, Massachusetts, New Jersey, Pennsylvania, Wisconsin are all in double digits. And despite this rather lackluster performance, New York's administrative costs have gone from $89 million in 1984 to $121 million in 1985. New York total collections were $1.83 for every dollar of administration, in AFDC it's 68 cents for every dollar of administration, and in the non-AFDC collections it's $1.15 for every dollar of administration. This is not good.

It had better change. It is not something that we can say simply it's a problem of the judiciary because the judiciary was the same in 1985 as it was in 1986 or in 1984 and 1983 and 1982, and our record is bad. And it behooves a State like ours and a Governor like ours, who is interested deeply in these issues, to do better. We will do better.

[The following was subsequently received:]

## SUPPLEMENTARY INFORMATION

## JUDITH M. REICHLER, DIRECTOR, NEW YORK STATE COMMISSION ON CHILD SUPPORT

I realize the purpose of these hearings was to receive testimony regarding implementation of the 1984 child support amendments and recommendations for further measures; the focus was not on the performance of particular states. Since some figures were proffered regarding New York's collections and expenditures, however, I would like to take this opportunity to comment further.

The average number of New York AFDC cases in which a child support collection was made increased from 48,979 in FFY 1985 to 49,900 in FFY 1986. Please refer to table 30 on page 39 of the Eleventh Annual Report to Congress for the period ending September 30, 1986 (Volume II), Department of Health and Human Services, Office of Child Support Enforcement.

According to information provided the commisssion by New York's child support enforcement agency, a much larger number of AFDC families are being removed from welfare than ever before. Prior to 1987, figures were compiled manually by each local district. This system was recognized as inaccurate, and a new computerized system, called "child support management system," or "CSMS", was set up to carry out a more accurate compilation. The CSMS counts for the most recent quarter for which data is available show AFDC case closings as a result of child support collection totaled 15,376.

New York's administrative costs increased from $89 million in 1984 to $101 million in 1985. From 1984 to 1986, expenditures increased by 35 percent, as compared to the national average of 30 percent.

During this period, it should be noted that New York, for the first time, began claiming federal reimbursement for the judicial decision-making process implemented to provide an expedited process (prior to November 1985, these expenditures were not reimbursable and, therefore, not included in administrative costs).

It was also during these years that New York invested heavily in computerization and now has a completely automated statewide system for locating absent parents, tracking cases, accounting and disbursing collections, intercepting state and federal income tax refunds and issuing income deduction notices. Primarily as a result of these changes, New York increased child support collections by 55 percent for the period from 1982 to 1986 (compared with the national average of 23 percent).

New York has been one of the states fraught with particularly low child support orders, given the income available. There will, I am certain, be a surge in collected amounts once meaningful guidelines are in place. Unfortunately, there has been unusually strong opposition from certain matrimonial attorneys in New york to the passage of the child support guidelines proposed by Governor Cuomo and supported by the commission. This has considerably delayed passage of useful guidelines and perpetuated the dire conditions found by this subcommittee in 1984 for longer than anyone imagined possible.

Acting Chairman DOWNEY. Mrs. Kennelly.

Mrs. KENNELLY [presiding]. Thank you, Mr. Chairman.

I see a dilemma pointed out to me this morning. We passed the 1984 amendments because enough was not being done. Then having passed the 1984 amendments, we get a dismal report from the four of you on the status of child support. And yet, some of your suggested that we pass additional amendments. And it makes one wonder if it's worth the time and the effort when you hear those figures and listen.

I still can't get a handle how—Ms. Perluss, you cited example after example of the inadequacies of the system.

You're an attorney working for Legal Services, and you cite a case that, say, were someone has won the lottery, or someone is vice president of an insurance company, and there is no success in obtaining support. Aren't there legal avenues in a case like which that would seem appropriate that the person would pay child support? Aren't there legal avenues to pursue that?

Ms. PERLUSS. I suppose there are custodial parents who have the resources to go out and hire a lawyer to pursue an interstate collection. Unfortunately, we are talking in these instances about women who, notwithstanding the availability of those resources in another State, are on AFDC in Washington. They simply do not have the resources available to pursue independently of the State support enforcement system their own redress.

Mrs. KENNELLY. You couldn't do it through the Legal Services?

Ms. PERLUSS. With much difficulty. We simply don't have the resources to be pursuing the people in interstate cases in those various mechanisms either.

I mean, as I'm sure you are well aware, the Legal Services programs throughout the country are very thinly spread in terms of the kinds of cases that they can handle. And our priority, we have made a decision within our program to make it a priority to concentrate our efforts on making the IV-D system an effective tool for our clients who don't otherwise have the resources and so that our resources don't have to be spent in pursuing these interstate collections because we also don't have the tools available to do the mandatory wage withholdings, for example, that the States have that resource available.

There really are no interstate wage withholding remedies other than the IV-D remedies.

Ms. DODSON. If I may reiterate, that is actually a very important point, that the States ended up for most of the withholding procedures making them available in non-IV-D cases. But the interstate withholding remedies are almost entirely limited to the IV-D cases. So that even if she were to go to a Legal Services office who could get a cooperating attorney in the other State, they would not be able to use the interstate withholding procedure because there was no Federal requirement that it be extended to the non-IV-D cases as there was with regular withholding and, in fact, most States have not done so on the interstate withholding level.

There's also in that particular example a technical problem in many States. I don't know Arizona's law, but the Federal requirement for what had to be subject to income withholding was only wages and related sort of commissions and bonuses.

Under the definition, some States have chosen their definition would be broad enough to include income from a lottery or any other regular source of income. But the Federal law doesn't certainly require that income withholding reach that.

Mrs. **Kennelly**. In income withholding, they even have those few additionals that we've included.

Ms. **Dodson**. Right.

Mrs. **Kennelly**. I come back to the question, it seems we're finding three things here. Someone mentioned that the person couldn't find somebody across the street.

Is that the inadequacy of the system? Is it that these people are so incredibly low paid and their commitment to the job is so low that they didn't look out the window?

What I'm having trouble here is deciding do we have a commitment problem from the Governor on down, or is it do we have an adequate system? And then let's add another thing. One of the gentlemen that testified before you mentioned that the client, the person you're trying to collect from, often doesn't have the wherewithal or the means to pay child support.

And I think we have got to get a handle on where our problem is before we go ahead and try to pass additional legislation. We've already passed some, and it doesn't seem to have worked. Is just one of these contributing to the problem or is all three?

Ms. **Dodson**. I think it's the all three is the issue.

One of the things in preparing this testimony that really struck me is the level of resources that really would be needed to deal with all the cases that we're talking about.

I think we've recurrently found serious understaffing problems. And even a devoted person, if faced with a thousand cases in their personal caseload, simply can't devote much resources to finding anybody.

It is also through that there are not without automation you don't have the cross-checks with other State records to make an automated system possible. So you have that systemic problem.

But it seems to me that there are enormous staffing problems, and that that is a result, in large measure, of the lack of resources going into the system. And the system really would have to be operating at two or three times the current level to start to have the effect we would like to see it have, and States are simply not doubling and tripling those resources, and they are not plowing back the profit that they are getting into that effect.

So I certainly think that the staffing and resources are one major problem. But there are also enormous systems problems. And the automation continues to say one very key thing you can't do all kinds of systemic things without the automation in place that there needs to be. And there are also, I think, very serious management problems on State levels on training and on staffing and performance and computers, the whole area.

Ms. **Goldfarb**. If I may just add a word. We've been talking about problems on the State level, and I think it's fruitful to consider what the Federal Government can do to address those problems.

Clearly, more comprehensive Federal monitoring is needed. We've seen actually a cutback in the extent of Federal audits whereas more comprehensive audits and more vigorous followup audits are needed. Also given that education and training for State and local personnel are so sorely needed, additional technical assistance and funding along those lines from the Federal agency would be very helpful.

Similarly, given that inadequate staffing and overload of cases for each staff member is having a very damaging effect on enforcement, staffing should be a more specific subject of Federal monitoring, and staffing standards should be imposed on a Federal level.

One problem with the nature of the financial incentives that exist for child support enforcement services is that in many cases the interest of the State is to pursue the easiest cases first, and save those cases that present any difficulties for later, which often means putting them at the bottom of the barrel.

We heard, for example, from parents dealing with their local IV-D agencies that they were told that the IV-D agency would be happy to help them if they bring in the father's address. In other words, the IV-D agency doesn't want to invest the resources for some of the processes that are more time consuming and more consuming of resources.

Establishing paternity is a perfect example. There is a perception that establishing paternity takes a long time and is expensive, so we'd rather work on the cases where we don't have to initially go over that obstacle.

Mrs. **Kennelly**. There's a difference between establishing paternity and finding an address for him.

Ms. **Goldfarb**. Exactly.

Mrs. **Kennelly**. But didn't you have figures, say, in the State of Washington about the numbers of parents who just pay their child support in relation to the numbers itself? I mean has it just become a national thing to abandon the child?

Ms. **Dodson**. We know the national figures which are that only about half of those who are supposed to pay pay in a given year, pay in full and on time. And those figures are almost unchanged——

Mrs. **Kennelly**. That's right.

Ms. **Dodson** [continuing]. Over from 1978 till the most recent census figures. It's a flat line. It hasn't improved.

Mrs. **Kennelly**. That's what I'm beginning to see here. We've got a problem. We knew all those things before we did the 1984 amendments. Then we did the 1984 amendments and we're right where we were back then.

Am I right? Is that what your testimony points out?

Ms. **Goldfarb**. Yes. An additional problem that makes that 50 percent figure even more troubling is that we see that as soon as a parent falls into arrears, he's even less likely to make the payments than a father who has not fallen into arrears.

The collections in 1986 for past due support was only 8.6 percent of the amount due. So once the obligation falls into the past due category, collections drop even further.

Mrs. **Kennelly**. Some other committees have had testimony on this same subject, and it has been suggested in other places that the disregard be discontinued. We've had a number of people testify about this.

I was wondering what you thought about that, whether we should put it into a fund to improve this situation.

Then others say, of course, I remember we said in 1984 that we thought it was a good thing for the child to know that the parent was giving.

Do you have any comments on that?

Ms. PERLUSS. I do have very strong feelings about that based upon the experiences of my clients. As I indicated, out of 65,000 AFDC cases in Washington, the State pays out—disregards to 8,000 families, which is the number of families on whose behalf support is being collected. That's only 11 percent of the caseload.

I think that if you talk over a 12-month period, if support is being collected every month, each and every month, you're only talking about 600 additional dollars that goes out to the family. A pretty insignificant amount of money in terms of actual revenue benefit to the State if the disregard was not being paid out, but a significant benefit to the family if the disregard in fact is being paid out to the family.

I identified, what I see are four beneficial purposes of that $50 disregard, in addition to the added income, which is significant, and for a family of three in Washington State, is a 10 percent added income to the family, and the family, if they can rely on receiving that $50 payment over each and every month, they can make significant use of that.

As in the case of my one client, Juanita Mullen, she used—the fact that that $50 was coming in each and every month this was the only indication that she had child support was being paid. The States have not traditionally provided any kind of regular notice to AFDC recipients about the fact that they are collecting support or the amount that they're collecting on their behalf. So, for her, and I believe that this is true across the board, it made a significant difference in her ability to decide that she was now ready to terminate from AFDC and was able to have enough income to support herself and her children.

It is an incentive. I have had clients call me asking me about, well, what's with this $50 payment? How come I haven't been getting that? And when they call the IV-D agency, they find out that they got it one month, that they didn't get it the second month, they got it the third month but they didn't get it the fourth month or the fifth month because the payments came in on an irregular basis. Why? Because the employer maybe only made the payment quarterly, or a court clerk only forwarded the payment once every 3 months. So they only got the $50 payment for 1 month even though the support collected represented more than 1 month's worth of support. That's a function of HHS' interpretation, that in fact the contacts from AFDC recipients to the IV-D agencies have significantly increased. And once they know about the $50 disregard—and that's another thing, they're not generally told about it when they originally apply for AFDC—they obviously will take action to get that money if it's available. It's certainly not in their interest not to do so, and they recognize that.

So I think that it has been significant benefit for those families, and the revenue benefit to the State if it's not paid out is pretty insignificant.

Mrs. **Kennelly**. I believe most of you are attorneys, am I right?

Ms. **Reichler**. All of us.

Mrs. **Kennelly**. In some States, they have different methods of collection. Obviously it's different in all the States. But certain States are moving further and further away from the courts to appointed magistrates, nonlegal people.

And yet I worry that if the bureaucracy is so bad now that it will become entirely a bureaucratic enterprise if the courts are not involved. I'd like to know how you feel about the removal from the judicial system?

Ms. **Reichler**. I'd like to address that.

First, before I do, I wanted to just add to this, that I get calls all the time in my office, and I frequently get calls from people receiving public assistance who want to know why they aren't receiving it and what they can do to receive it. When I tell them, they provide the IV-D agency with the address, Social Security number, and where they can locate the parent.

And I think that the net revenue to the State is far greater by providing the $50 disregard than it would be if they kept the $50 disregard, because they are able to establish orders, reliable orders often that they can collect on.

But with regard to your second question, New York State has a quasi-judicial system, as you probably know. Even that is troubling. I agree that we should be getting away from the judicial system. As I just pointed out, it's a weak link. It's partially a weak link, though, because it's living in the old days, not because it's inherently a weak link.

It troubles me greatly that child support cases—I'm putting together a book now on child support cases decided in the last five years or so in New York, and I am finding that the further you remove it from the judicial system, the less likely any case is to have precedential value or interpretive value. And it is absolutely essential, I think, for the development of this field and getting attorneys—we are just beginning to pull attorneys back into the child support area, because, as you know, they couldn't collect, they couldn't get their fees, so they turned the cases away. With income withholding, we are getting them back into the system now.

But they must know how the judges are interpreting the law or the due-process requirements of the income withholding, what are the guidelines. And the further you remove that from the judiciary—and God help us, if we put it, as you pointed out, in the administrative area altogether, we've really resigned child support, I think—talk about a low totem pole—buried it to insignificance.

Mrs. **Kennelly**. And yet we are not doing very well in the direction we are going now, which the testimony shows us so far.

Ms. **Reichler**. Educate the judges and let them decide the cases in writing.

Ms. **Perluss**. I'd like to comment on the judiciary for a minute, because at least in my experience in Washington State, I don't think that the bench is really the main problem. I think that there has been inadequate attention given to the amount of child support awards, but with child support guidelines hopefully that will improve and the awards will in fact be higher.

I have some concern about putting all the procedural aspects of enforcement in the hands of the very agency that has a financial benefit in the enforcement of those awards, particularly in the AFDC context, because you just have there an inherent conflict of interest between the agency taking steps to enforce the obligation on its own behalf, rather than on behalf of the custodial parent and the children, and you run into a whole range of procedural problems and inadequacies, that I believe that the current system, the enforcement and collection system, really mitigates that, which is why I really believe that this is an important thing for Congress to do, is to really stress the goals of the child support enforcement system as being to aid families and children and not simply being a revenue collection device for the states. There needs to be that commitment there and that attitudinal change, or change in the perception of the agency at the local level as to what its function is and how that function can contribute to the welfare of families within the state.

Ms. DODSON. One of the concerns I think we have is that there has been a longtime problem in the whole family law field with that being considered sort of a second-class area, and the notion that sort of family law is so insignificant that it can be removed and we can do that with sort of hearing examiners who are not even lawyers necessarily is problematic, I think. One of the things that I also see as a real difficulty—and this has partly been from looking at some local systems—is that when you start to do that for the IV-D cases, many people get their support orders as part of a divorce, and I think that it is unrealistic to think that divorce cases in general are going to be removed from the judicial system and put in an administrative system of some sort. And if you separate out the IV-D cases from those done via divorce, you end up with a two-tier system with sort of poor people's law being done by administrative hearing officers, on the one hand, and other people's law being done by the courts on the other hand. And I am made uncomfortable by the notion that that would be possible.

Mrs. KENNELLY. Of course, unfortunately, we have statistics showing that even those with a court order in their hands aren't collecting.

Ms. DODSON. That's right. Where the order comes from doesn't seem very significant in whether it's enforced or not, it seems to me.

Mrs. KENNELLY. Thank you. I wish we had more time, but we have two more people. Thank you very much for your testimony.

The American Bar Association, Robert Arenstein, member, Section Council, Section of Family Law, and Eastern Regional Interstate Child Support Association, Gordon Bailey, Jr., past president, will testify now.

Thank you, gentlemen, for coming today, and, Mr. Arenstein, why don't you begin.

## STATEMENT OF ROBERT D. ARENSTEIN, COUNCIL MEMBER, SECTION OF FAMILY LAW, AMERICAN BAR ASSOCIATION, ACCOMPANIED BY MARGARET C. HAYNES, DIRECTOR, CHILD SUPPORT PROJECT

Mr. **Arenstein**. Thank you. Good afternoon, Mrs. Kennelly. The American Bar Association appreciates the opportunity to present its views on the subjects of implementation of the 1984 Amendments and interstate enforcement. I would ask to have my full statement introduced into the record.

Mrs. **Kennelly**. It will be in the record.

Mr. **Arenstein**. Thank you. As you may know, the ABA is a national association made up of nearly 347,000 attorneys. Two sections of the American Bar Association, the Family Law Section and the Young Lawyers Division, have long worked on issues you have been commissioned to consider.

I am Robert Arenstein, a council member of the American Bar Association Family Law Section and a fellow of the American Academy of Matrimonial Lawyers. I'm a private practicing attorney, and with the last 15 years' experience I have handled support cases in both New York and New Jersey, and I've also handled interstate support cases across the state lines of New York and New Jersey.

From 1981 to 1983 I chaired the American Bar Association's Family Law Section's committee on interstate and Federal support laws and procedures, and for many years I've spoken nationally and published articles on interjurisdictional enforcement.

With me today is Margaret Haynes, the director of the ABA's Child Support Project, a project of the Young Lawyers Division's National Legal Resource Center for Child Advocacy. The Child Support Project, pursuant to a contract with the Federal Office of Child Support Enforcement, provides training on child support issues to lawyers, court personnel, and child support workers nationwide.

Ms. Haynes has developed a full-day course on interstate child support remedies which she has delivered in 17 States. Her prior experience was as a prosecutor of URESA and criminal nonsupport cases.

My testimony today is based on ABA policy and both our experiences and observations throughout the country. What I am going to address today is support guidelines, wage withholding, tax intercept, and the use of liens.

Let me say that in the ABA Family Law Section we have been working on child support and interstate enforcement since 1980–81 when I chaired the committee on Federal and interstate support laws and procedures. We had introduced a resolution which saw its way into Congress in the Economic Equity Act of 1983. That was the forerunner of the Child Support Amendments of 1984, and we had worked with people in Congress in trying to get that passed.

However, in February of 1987 the ABA House of Delegates approved a resolution, a copy of which is attached to our statement, supporting an implementation by the States of support guidelines. Lest you conclude that the ABA was a little late in the game, since the 1984 amendments had already required guidelines by October

1, 1987, let me add that the resolution also recommended the States adopt such guidelines as rebuttable presumptions, a concept in all major welfare reform bills now before Congress.

I guess you heard from Judy Reichler about that as well. I do practice in the State that she sits in as commissioner.

A rebuttable presumption does not mean that the guideline amount is set in stone; rather it means that the court or agency must award the guideline amount unless either party demonstrates that the application of the guideline will be unjust. In order for the parties to be fully informed of a court or agency's rationale for varying the guideline amount, the ABA recommends that in order to vary from the guideline amount, judges or hearing officers be required to make written findings or oral findings on the record explaining the deviation.

Obviously, if the guidelines are going to be a rebuttable presumption, it is vital that the States take care in adopting guidelines.

While the ABA does not take a position as to what is the best guideline—and there are various approaches throughout the country, which I've detailed in my statement—we do recommend that the guidelines address a number of different issues.

One of the most important of these is the definition of income to which the guidelines will be applied. Drafters should determine whether the guideline will be based on gross or net income, and, if the net income is chosen, how to define net income, how to define income from self-employment, how to treat benefits, such as a company car, pension plans, in lieu of income, and whether business income should be included, such tax-deductible items as depreciation which do not represent a cash expenditure.

Guidelines should also address how to treat income from a new spouse, or whether it should be included at all, and whether child care should be included, private or secondary education, medical and dental care, joint custody, and different standards of living between the separate households.

Some lawyers are concerned about States adopting guidelines based on Department of Social Services regulations. I'll tell 50u, that's what they've done in New York so far—and New Jersey has a better way of doing it—but they have a cap of up to $42,000 and then you are out of the guidelines. And most of these guidelines are geared to AFDC recoveries.

Other lawyers that represent the obligors are concerned about the treatment of high-income cases under strict percentage-of-income guidelines. What we've found in the private bar is basically if you have a percentage guideline all the way down the line, based on income, sometimes you have an unfair picture, because a State may be awarding alimony and child support, and if you take a straight percentage of income for the child support, the State already might have in place an alimony award, and then you might have an unfair picture altogether. So basically, just using strict percentages, even in the higher incomes, might be unfair.

Well, the ABA recommends that the States adopt guidelines which result in appropriate awards for children in both high and lower income cases, looking at all the factors.

Finally, in its policy resolution, the ABA recommends that the States periodically review and update their support guidelines to ensure that children receive appropriate support. The guidelines should be updated based on more recent statistical data. We strongly recommend that policymakers also consult in advance with a variety of legal groups to assist in identifying practical and procedural problems of guideline application. This periodic review of guidelines is another concept found in the major welfare reform bills now before Congress.

The cornerstone of the 1984 amendments is the requirement for income withholding in intra- and interstate cases. Unfortunately, our experience indicates that the State compliance with that requirement is abysmal. Out of 17 States in which Ms. Haynes conducted training from 1985 to 1987, not a single State acknowledged beginning withholding procedures when required by Federal law, that is, when 1 month's amount of support has become due.

A large part of the problem stems from inadequate State resources in staffing and automated systems. Other causes include lack of knowledge by the people administering the withholding and unclear division of responsibilities among the various agencies involved. In several States the clerk's office is responsible for implementing withholding, yet, apart from being given a copy of the statute, the deputy clerks have received little training. Such training is therefore a key element of the American Bar Association's Child Support Project.

Education on income withholding was also provided at the Alimony Conclave sponsored by the ABA Family Law Section in Houston, Tex., in 1987. By the way, the reason we picked Houston, Tex., was because Texas has no alimony, and we thought that would be a place for the conclave.

Many States have limited the availability of interstate withholding to IV–D cases, and basically this is a problem. In New York, we are allowed to use the IV–D process, if one is collecting his money through the social services agency, even if it is not a IV–D client or an AFDC client. Many states have limited both the collection of that to their IV–D people only—and I would suggest that maybe we should think about expanding it—and I have heard that suggestion earlier today from other people as well.

The ABA recommends that the States adopt effective procedures for interstate wage withholding, such as the Model Interstate Income Withholding Act, drafted by the Child Support Project and the National Conference of State Legislatures. The Model Act has substantially been enacted by ten States. Pursuant to its provisions, an order of one State is entered in State two for the purpose of enforcing by wage withholding only. Filing of the order does not confer jurisdiction upon the second State to modify the order in any way.

Another thing that I wanted to comment on was liens, basically to enforce liens against self-employed and other people. Congress has recognized liens as being particularly effective against self-employed obligors. Even subsequent to the passage of the 1984 amendments, few States have adopted lien laws specific to child support enforcement. There's got to be some mechanism that, through the Federal Government, we can get the States to use these liens, both real property and personal liens, against the obligors to collect child support enforcement.

The ABA recommends that States enact innovative remedies such as the establishment of a central lien registry in which an obligee can register a child support order and thereby create an automatic lien for all unpaid child support payments as they become due against all real property owned by the obligor in that State.

Finally, this subcommittee has solicited testimony regarding URESA. URESA was first adopted by the National Conference of Commissioners on Uniform State Laws in 1950. It was amended in 1952 and 1958, and substantially revised in 1968. The most recent version of URESA is referred to as RURESA.

Because URESA is not a Federal statute, States have been free to adopt bits and pieces of the various versions. All States, Puerto Rico and the Virgin Islands, American Samoa, and Guam, have adopted some form of URESA, or substantially similar statute. While the majority of the States have enacted the 1968 Revised URESA, there are still a few states operating under the 1958 act. New York calls it USDL, but it's similar to URESA or RURESA at this point. And Iowa has a little different act as well.

Some States with the 1958 version lack a specific provision authorizing URESA courts to collect arrears or to establish paternity cases in URESA actions. This lack of authority greatly hinders interstate enforcement. In New York we have just patterned the paternity part of it to have enforcement, and I think now, with the advent of DNA technology and blood tests, I think that leaves room for—I'm sure you are going to hear more about it on Thursday—leaves room for some sort of a Federal means of enforcing paternity orders, or establishing paternity.

Although the ABA has recommended that States enact the most recent version of URESA, it does not recommend that Congress pass a Federal mandate to do so. The reason is that even the 1968 RURESA is an anachronism in today's child support enforcement world. It does not reflect all the IV-D program which has so dramatically impacted child support enforcement. It does not give sufficient guidance concerning registration of foreign support orders, where an uncertainty exists as to the effect of any modification of that registered order. We recently had a case in New Jersey where a support order was litigated in one State, filing in the initiating State, went to the responding State; the order was modified, went back to New Jersey, and the New Jersey courts refused to acknowledge the modification in the responding State, because their State order was controlling. There's a big problem with modification all across the country on URESA statutes. RURESA doesn't deal sufficiently with interstate paternity establishment, where the post-1968 acceptance of genetic testing has greatly affected paternity litigation, and the emergence of telephone and video conferencing has enhanced the production of "live" testimony in interstate cases.

Other problems with URESA deal less with the statute than with the procedures States have established to implement the Act. There are often multiple agencies involved in processing a URESA case, and responsibilities are not clearly defined.

Based on our experience, the quality of legal representation in URESA cases often needs improvement. You have heard here earlier that it's a training ground for young lawyers to get involved in.

I did hear Ms. Reichler state that petitioners are not represented by counsel, yet the corporation counsel's office, which is the district attorney's office in New York, does represent petitioners. Generally the respondents have their own private attorneys, or they come in pro se.

Finally, the traditional reliance on URESA as the interstate enforcement mechanism has also resulted in multiple conflicting orders, as I just stated to you, in several States with the parties and judges uncertain as to which order governs.

The goals of URESA remain laudable. While interstate income withholding may be more effective to enforce an existing order where you have an employed obligor, States still need a vehicle in interstate cases for initially establishing paternity, for initially establishing an order, for modifying orders, and for enforcing orders by means other than just interstate income withholding. We personally encourage the subcommittee to consider whether URESA is still the best vehicle to reach those goals or whether Federal legislation is now necessary.

There is also an act, the Uniform Enforcement of Foreign Judgments Act, and for some reason that act has only been passed in 28 States, and maybe you will want to take a look at that and see if that can also be spruced up to work together with URESA, or separate and apart, or maybe a Federal filing in a district court of a support order, where one could file in his or her local district court and then file in the district court of the State where you seek to enforce it.

In conclusion, the ABA thanks this subcommittee for holding these important oversight hearings. We thank you for permitting us to present these views, and will be happy to answer any questions you may have.

[The statement of Mr. Arenstein follows:]

# STATEMENT OF ROBERT D. ARENSTEIN, COUNCIL MEMBER, SECTION OF FAMILY LAW, ON BEHALF OF THE AMERICAN BAR ASSOCIATION

Mr. Chairman and Members of the Subcommittee --

The American Bar Association appreciates the opportunity to present its views on the subjects of implementation of the 1984 Amendments and interstate enforcement. As you may know, the ABA is a national association made up of nearly 347,000 attorneys. Two sections of the ABA --The Family Law Section and the Young Lawyers Division --have long worked on issues you have been commissioned to consider.

I am Robert Arenstein, a Council Member of the ABA Family Law Section and a private attorney with 15 years experience handling support cases. From 1981 to 1983 I chaired the ABA Family Law Section's Committee on Interstate and Federal Support Laws and Procedures. For many years I have spoken nationally and published articles on interjurisdictional enforcement. With me is Margaret Haynes, Director of the ABA's Child Support Project, a project of the Young Lawyers Division's National Legal Resource Center for Child Advocacy. The Child Support Project, pursuant to a contract with the federal Office of Child Support Enforcement, provides training on child support issues to lawyers, court personnel, and child support workers nationwide. Ms. Haynes has developed a full-day course on interstate child support remedies which she has delivered in 17 states. Her prior experience was as a prosecutor of URESA and criminal nonsupport cases. My testimony is based on ABA policy, and both our experiences and observations throughout the country.

I want to first address implementation by the states of the 1984 Amendments. Since you will hear from a number of advocacy groups, I will confine myself to the following areas of the Amendments: support guidelines, wage withholding, tax intercept, and use of liens.

In February of 1987 the ABA House of Delegates approved a resolution, a copy of which is attached to this statement, supporting the implementation by states of support guidelines. Lest you conclude that the ABA was a little late in the game since the 1984 Amendments had already required guidelines by October 1, 1987, let me add that the resolution also recommended that states adopt such guidelines as rebuttable presumptions - a concept present in all the major welfare reform bills now before Congress. A rebuttable presumption does not mean that the guideline amount is set in stone. Rather, it means that the court or agency must award the guideline amount unless either party demonstrates that application of the guidelines will be unjust. In order for parties to be fully informed of a court or agency's rationale for varying from the guideline amount, the ABA recommends that in order to vary from the guideline amount, judges or hearing officers be required to make written findings or oral findings on the record explaining the deviation.

Obviously, if guidelines are going to be rebuttable presumptions, it is vital that states take care in adopting guidelines. The four theoretical approaches which have emerged in guidelines development are the equalization of standards of living approach (which seeks to ensure comparable standards of living in the two separate households), income shares approach (which allocates a certain percentage of each parent's income to the child), the cost-sharing approach (which attempts to compute the costs of rearing a child and then allocates those costs between the parents), and a hybrid cost-and income sharing approach such as Delaware's Melson Formula.

While the ABA does not take a position as to what is the "best" guideline, we do recommend that guidelines address a number of specific issues. One of the most important of these is the definition of income to which the guideline will be applied. Drafters should determine whether the guideline will be based on gross or net income, and if net income is chosen, how to define "net income"; how to define income from self-employment; how to treat benefits (such as a company car) in lieu of income; and whether business income should include such tax deductible items as depreciation which do not represent a cash expenditure. Guidelines should also address how to treat income from a new spouse, if it is to be considered at all child care, private or post-secondary education, medical and dental care, joint custody, and different standards of living between the separated households.

Some lawyers are concerned about states adopting guidelines based on Department of Social Services regulations which tend to be geared toward AFDC recovery. Other lawyers, representing obligors, are concerned about the treatment of high income cases under strict percentage of income guidelines. The ABA recommends that states adopt guidelines which result in appropriate awards for children in both high and low income cases. Some lawyers have also complained that advocacy for one's client has been reduced to knowing how to punch the right numbers on a calculator. Such statements indicate that more effort needs to be made educating lawyers and judges on use of guidelines and the continued importance of evidence regarding various guideline factors.

Finally, in its policy resolution the ABA recommends that states periodically review and update their support guidelines to ensure that children receive appropriate support. The guidelines should be updated based on more recent statistical data. We strongly recommend that policy makers also consult, in advance, with a variety of legal groups to assist in identifying practical and procedural problems of guidelines application. This periodic review of guidelines is another concept found in the major welfare reform bills now before Congress.

The cornerstone of the 1984 Amendments is the requirement for income withholding in intra- and interstate cases. Unfortunately, our experience indicates that state compliance with that requirement of the 1984 Amendments is abysmal. Out of the 17 states in which Ms. Haynes conducted training from 1985 to 1987, not a single state acknowledged beginning withholding procedures when required by federal law - that is, when one month's amount of support has become due. A large part of the problem stems from inadequate state resources in staffing and automated systems. Other causes include lack of knowledge by the people administering the withholding and unclear division of responsibility among the various agencies involved. In several states the clerks office is responsible for implementing withholding, yet apart from being given a copy of the statute, the deputy clerks have received little training. Such training is therefore a key element of the ABA Child Support Project's course. Education on income withholding was also provided during the Alimony Conclave sponsored by the ABA Family Law Section in 1987.

Interstate cases receive the lowest priority for withholding. States appear to be so overwhelmed in trying to get records straight and implementing withholding in local cases, that their interstate caseload receives little attention. We have also observed other problems associated with interstate wage withholding.

1) Since a wage withholding order compels an employer to withhold portions of a person's income for child support, the court or agency issuing the order must have jurisdicton over the employer. Jurisdiction is present if the employer is located in the state. It can also exist over an out-of-state employer if the employer does business within the state and is subject to long arm jurisdiction.

   Agencies in some states, however, are sending withholding orders directly to out-of-state employers even though their state has no long arm jurisdiction over the employer. They do so in the hopes that the out-of-state employers will voluntarily comply with the order. Unfortunately, such an order is not only void since the issuing court or agency has no jurisdiction over the out-of-state employer in the absence of a long arm statute, the practice has also caused a hostility of employers toward wage withholding. Employers are unsure about which wage withholding orders are legally valid and fear liability should they comply with one that later turns out to be void.

2) Many states have limited the availability of interstate wage withhholding to IV-D cases. Because of the effectiveness of interstate wage withholding, the ABA recommends that Congress require states to extend interstate wage withholding to all support orders without regard to IV-D status.

3) A few states will allow interstate wage withholding as an enforcement remedy only if the out-of-state order is registered in the second state under URESA or the Uniform Enforcement of Foreign Judgments Act. Registration is a procedure by which the order of one state is filed in a second state and is treated by the second state just like any local order entered by that second State. Registration has its own notice and opportunity to contest provisions.

> Therefore, by requiring registration of the order, these states are requiring an additional layer of activity and delay before wage withholding procedures (which also require notice and an opportunity to contest) can be implemented. Registration also subjects the support order to possible modification by the second state. The ABA recommends that states adopt effective procedures for interstate wage withholding such as the Model Interstate Income Withholding Act, drafted by the Child Support Project and the National Conference of State Legislatures. The Model Act has been substantially enacted by 10 states. Pursuant to its provisions, an order of State 1 is entered in State 2 for the purpose of enforcement by wage withholding only. Filing of the order does not confer jurisdiction upon State 2 to modify the order in any way.

Another requirement of the 1984 Amendments is the availability of federal and state income tax intercept to IV-D clients, both AFDC and non-AFDC. Because these are effective remedies for collecting arrearages, the ABA recommends that they be made available to all support obligees, whether represented by a public agency or a private attorney or appearing pro se.

A fourth requirement of the 1984 Amendments is that states establish procedures for the implementation of liens against real and personal property. Although a lien does not automatically result in collections, it often leads to elimination of an arrearage when the obligor desires to clear title before borrowing money or selling the property. Congress recognized liens as being particularly effective against self-employed obligors. Even subsequent to passage of the 1984 Amendments, however, few states have adopted lien laws specific to child support. Rather they have used general lien laws applicable to enforcing money judgments.

General lien laws require an obligee to obtain a money judgment which specifies the amount of arrears and then file that judgment with the Registry of Deeds or other office in order to create a lien. In most states a docketed money judgment for arrears does not place a lien on the debtor's property for unpaid future support installments. Each time an arrearage builds up, the obligee must have it reduced to a sum certain money judgment and file a new lien - a process that may need to be repeated every month. In most states it is also necessary to register the lien in each individual county in which real property is owned by the obligor in order for the lien to bind that property. Such a procedure is not only time-consuming and possibly expensive, but a particular county may also be inadvertently overlooked.

In order to more effectively reach the self-employed, the ABA recommends that states enact innovative remedies such as the establishment of a central lien registry in which an obligee can register a child support order and thereby create an automatic lien for all unpaid child support payments as they become due against all real property owned by the obligor in that state. Obviously for such a registry to work, it is vital that states have automated systems with accurate payment records.

Finally, this Subcommittee has solicited testimony regarding URESA - the Uniform Reciprocal Enforcement of Support Act. URESA was first adopted by the National Conference of Commissioners on Uniform State Laws in 1950. It was amended in 1952 and 1958, and substantially revised in 1968. This most recent version is often referred to as RURESA. Because URESA is not a federal statute, states have been free to adopt bits and pieces of the various versions. All states, Puerto Rico, the Virgin Islands, American Samoa, and Guam have adopted some form of URESA or a substantially similar statute. While the majority of the states have enacted the 1968 Revised URESA, there are still a few states operating under the 1958 Act and some states, such as New York and Iowa, with reciprocal acts which substantially differ from any version of URESA. States with the 1958 version lack a specific provision authorizing URESA courts to collect arrears or to establish paternity in a URESA case. This lack of authority greatly hinders interstate enforcement.

You will note in the attached policy resolution that the ABA recommends adoption by states of the 1968 Act. That Act was approved by the ABA House of Delegates in 1968. Although the ABA has recommended that states enact the most recent version of URESA, it does not recommend that Congress pass a federal mandate to do so. The reason is that even the 1968 RURESA is an anachronism in today's child support enforcement world. It does not reflect at all the Title IV-D program which has so dramatically impacted child support enforcement. It does not give sufficient guidance concerning registration of foreign support orders, where an uncertainty exists as to the effect of any modification of that registered order. It does not deal sufficiently with interstate paternity establishment, where the post 1968 acceptance of genetic testing has greatly affected paternity litigation, and the emergence of telephone and video conferencing has enhanced the production of "live" testimony in interstate cases.

Other problems with URESA deal less with the statute than with the procedures states have established to implement the Act. There are often multiple agencies involved in processing a URESA case - such as the IV-D Office, the Clerk's Office, and the Prosecutor's Office - and responsibilities are not clearly defined. These agencies vary not only from state to state, but from county to county within a state. It is difficult to make more uniform among the states an Act that is not even uniform within a state itself.

Based on our experience, the quality of legal representation in URESA cases often needs improvement. Prosecuting attorneys who are responsible for the negotiation and litigation of URESA cases often have such large caseloads they do not have time to adequately prepare cases. In some places, URESA cases are considered such low priority that the newest attorneys are assigned to them. A common complaint of URESA petitioners is that prosecuting attorneys in the responding state compromise ongoing support or arrears without ever consulting them or their representative in the initiating state. In a survey the Child Support Project conducted of the 50 states, less than 5 states indicated that they had a formal policy concerning negotiation of URESA cases.

There is also still a problem in cooperation between initiating and responding states such as the failure by states to respond to correspondence and the failure by responding states to timely notify inititating states of hearing dates.

Finally, the traditional reliance on URESA as "the" interstate enforcement mechanism has also resulted in multiple conflicting orders in several states with parties and judges uncertain as to which order governs.

The goals of URESA remain laudable. While interstate income withholding may be more effective to enforce an existing order where you have an employed obligor, states still need a vehicle in interstate cases for initially establishing paternity, for initially establishing an order, for modifying orders, and for enforcing orders by means other than just interstate income withholding. We personally encourage the Subcommittee to consider whether URESA is still the best vehicle to reach those goals or whether federal legislation is now necessary.

In conclusion, the ABA commends this Subcommittee for holding these important oversight hearings. We thank you for permitting us to present these views and will be happy to answer any questions you may have.

# AMERICAN BAR ASSOCIATION
# SECTION OF FAMILY LAW
# REPORT TO THE HOUSE OF DELEGATES

## RECOMMENDATION

BE IT RESOLVED, that the American Bar Association supports efforts to ensure adequate and fair child support awards and to improve the enforcement of child support orders.

The Association recommends the following:

(a) Development of effective and efficient procedures for enforcement of child and spousal support orders, including the use of income withholding from a wide range of sources of income and other procedures required by the Child Support Enforcement Amendments of 1984 and including having support payments become judgments as they fall due, not subject to retroactive modification.

(b) Development of innovative techniques for collection from self-employed delinquent obligors.

(c) Broad availability of child support remedies, including interstate support enforcement remedies, to clients of private attorneys and pro se litigants, as well as to individuals seeking services through public child support agencies.

(d) Broad participation by a variety of legal groups in the formulation of child support policies, statutes, procedures and guidelines, including private attorneys, public agency and legal services attorneys, judges, and state and local bar groups.

(e) Formulation of child support guidelines, required by the Child Support Enforcement Amendments of 1984, which provide for adequate levels of support and similar treatment of similarly situated parties. Child support guidelines should be used as a rebuttable presumption for the establishment of child support award levels. Judges and hearing officers should have discretion to deviate from the guidelines when their application would be unjust, provided that either written findings or specific findings on the record are made justifying the deviation. Guidelines should be used by judges and hearing officers to review the adequacy of support levels negotiated by parents.

Child support guidelines should be formulated by a representative group including members of the legislative, judicial and executive branches, a range of attorneys, child support enforcement administrators, and advocates for the interests of custodial and non-custodial parents. Guidelines should be reevaluated and updated periodically.

Formulation of guidelines should address: definition of income; handling of expenses for child care, education, medical and dental care (ordinary and extraordinary) and health insurance; special needs for children (such as handicapping conditions); age of children; treatment of second families; voluntary reduction of income, joint and split custody cases; and other recurrent problems in the establishment of support awards. States should also provide for regular updating of child support awards, by periodic reapplication of guidelines or by other means.

(f) Development of speedy procedures for establishing and enforcing support awards. When administrative and quasi-judicial officers are used for these functions it is essential that adequate protection be afforded the due process rights of all affected persons and parties, including the custodial parent, the non-custodial parent and the state. Particular concern should be addressed to providing all affected persons notice and an opportunity to be heard. Hearing officers should be well-trained and adequately paid.

(g) Improvement of child support enforcement services available from public child support enforcement agencies through adequate funding, training opportunities for staff, improved management, shortened waits for services, rapid disbursements of funds collected, improved information for recipients of services, and attention to ethical concerns for lawyers providing these services.

(h) Improvement of interstate support enforcement through: 1) adoption by states of an effective procedure for interstate income withholding, an example of which is the Model Interstate Income Withholding Act; 2) adoption by states of the 1968 Revised Uniform Reciprocal Enforcement of Support Act; 3) development of new and innovative approaches to handling interstate child support cases; 4) prompt and efficient handling of all interstate support cases; 5) clear definitions of, and reorganizations of, authority and responsibility for handling interstate cases so that there are not overlapping and conflicting responsibilities among public child support agencies (IV-D agencies), prosecutors offices and the court system; and 6) improvement in state cooperation in enforcing orders in interstate cases.

(i) Consideration of special problems involved in the establishment and enforcement of support obligations involving adolescent parents.

Mrs. KENNELLY. Thank you, sir. Mr. Bailey.

## STATEMENT OF GORDON F. BAILEY, JR., PAST PRESIDENT, AND CHAIRMAN, POLICY COMMITTEE, EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION, ACCOMPANIED BY SUSAN F. PAIKIN, PRESIDENT

Mr. BAILEY. Thank you very much. I'd like to ask that our written statement be submitted for the record.

Mrs. KENNELLY. It will be submitted.

Mr. BAILEY. I'd like to also introduce Susan Paikin, the president of Eastern Regional Interstate Child Support Association, who is here with me today. And I'd like to ask if she can join me at the table to answer certain questions that might be more appropriate for her to answer.

Mrs. KENNELLY. Certainly.

Mr. BAILEY. Let me start out by accepting the chairman's Gold Medal for the State of Alabama—and I bring the committee greetings from the State of Alabama—for our work in collection of AFDC reimbursement—I think we rank third in the Nation in that statistic. I will also accept the raspberry from Ms. Goldfarb concerning the lady whose income withholding order was not processed within a year, and if she will get me that name, I'll be glad to follow up on that as the prosecutor for the State of Alabama.

Mrs. KENNELLY. One case solved.

Mr. BAILEY. That's real effective use of the committee time, I think.

Let me just mention two or three things about how Alabama's child support program ranks third in the Nation in terms of effective support. One of the first things we did was to appoint a child support enforcement committee chaired by the chief justice of our supreme court. When the chief justice calls a meeting, everyone comes, including members of the private bar and judges. We first went to work on enacting statewide court forms and standardizing our court petitions and forms throughout the State; we passed income withholding and our version of the Uniform Parentage Act.

We also recognized judges and lawyers that toil in the vineyards of child support, in the trenches, so to speak, and recognized them by proclaiming a judge of the year, legislator of the year, and attorneys of the year that are acting in child support. We think that has enhanced our effort greatly statewide, and we have a statewide organization composed of over 400 members.

You've heard about a lot of problems this morning and this afternoon. I'd like to bring you hopefully some solutions, possible solutions, as recommended by our board.

The first solution and the first ray of hope that we see on the horizon is the use of interstate standardized URESA forms. This is covered in our written testimony. These forms—the work on these forms was begun in 1985 through a committee convened with the cooperation and assistance of the Office of Child Support Enforcement. As a representative of eastern regional, I had the pleasure of being elected as chairman of that committee. I do have a set of the forms with me. They are a complete set of forms. While they may look numerous, it would require a forklift for me to bring in all of the different State forms that are currently being used in the URESA process today.

Our committee looked at all of the State approaches to interstate URESA; I looked myself at about 35 different State approaches to paternity establishment—that was quite an undertaking. We devised the court forms, and had a judge on our committee, representing the National Council of Family Court Judges, help us draft the court orders that are contained in these standardized forms. We had a broad base of representatives from all of the national child support organizations. It's my understanding that the new interstate regulations which were published yesterday will mandate the use of these forms in interstate cases. We wholeheartedly support and recommend that that be effectively done immediately. These forms have been distributed to all of the States and should be available at this time for all States to use in interstate cases.

Basically, what it means, when I file a petition in Alabama and send it to New York, it will be on the same set of forms as filed in New York and sent to Alabama for prosecution. It's just a basic way of transmitting evidence and facts from State to State, which I will need in the responding State to effectively adjudicate the case.

We also designed a form to fit all of the different State approaches to child support guidelines. We didn't know when we devised the form what States would choose what child support guideline approach, and the forms we think are designed to effectively deal with that in each State.

The second proposal we would have would be for this committee to look at the requirement that three—and this is not covered in my written testimony, but I would urge the committee to consider deleting the requirement in URESA—and I will cover this in just a minute in my remarks concerning the redrafting of the act—to delete the requirement that each State file in a URESA case three copies of its State URESA Act. We simply think that this could be done by filing each State's URESA Act with the secretary of state, and that could be available. Every time I file a URESA petition with another State, I have to send them three copies of my State URESA Act. I don't think that it's read or memorized by the States particularly that receive the petition.

We would also recommend that when the forms are used—and if the forms are used as required—that State law be changed to state that this would be accepted as testimony in a URESA case. Now a URESA pleading is simply considered as hearsay in most States, in Alabama, for example. If challenged in court, I am required to present the witness, through deposition testimony or some type of interrogatories—and I will talk about video taping and teleconferencing in just a minute—but we are required to do that in a case now if challenged in court. We would recommend that if the forms are used, the State laws be changed to reflect that this would be considered as evidence in URESA cases without requiring further testimony from the petitioner.

Let's talk just a minute about redrafting URESA. I think H.R. 1720 now proposes that Congress convene a 2-year study project to examine the redrafting of URESA—and I believe that bill has certain provisions for membership on that committee. We think it could be done much quicker. We think that a year's time is all that's required to take a look at URESA and see what needs to be done in terms of the model interstate law, or to redraft URESA and propose that States enact certain provisions concerning interstate child support.

I'd like to address those provisions quickly with you. We would propose initially that a section be included in URESA or RURESA, the revised act, to include videotape testimony or teleconferencing. That is a new technique obviously that some States are using to present testimony where the woman is in one State or the custodial parent is in the initiating State and the case is being tried in the responding State. Neither version of URESA or RURESA contains any provision for teleconferencing, videotaping, or electronic transfer of testimony. We think that that provision should be included in every State law.

We would also recommend that a provision be included in URESA containing a presumption of paternity. As you've heard here this afternoon, the original URESA Act contains no provision for the establishment of paternity in interstate cases. That was the 1950 act which has been testified here earlier was amended in 1952 and again in 1958. In Alabama, we do not have the revised act, the 1968 revision; we still have the 1952 version.

In our URESA law, Alabama is not able to adjudicate paternity in interstate cases. However, given the opportunity to adopt and pass the Uniform Parentage Act of 1984, we wrote a provision in our Uniform Parentage Act which gives our courts the authority to adjudicate paternity in interstate cases. Presently it's my understanding that there are now two States that do not adjudicate paternity in interstate cases where it's contested by the alleged father.

We also recommend that a presumption of paternity be established in terms of a blood test—and I believe that's also been proposed in legislation pending or passed by the House. We would recommend that Congress should mandate that States enact a statute which creates a presumption of paternity if the blood testing inclusion rate is above the designated level. Now, our board does not have a precise and definite recommendation as to the percentages; we think that it should fall within the realm of 95 percent at a minimum to possibly 98 percent at a maximum.

Our second provision would be that we would ask this committee to consider requiring States to enact a statute that provides that a blood test, an HLA blood test or seven-systems test, to determine paternity be performed by an accredited laboratory. Now, blood testing laboratories that do paternity testing are now accredited by two national organizations, the American Association of Blood Banks and the American Society of Histocompatibility and Immunogenetics. If those groups, if one of those groups has accredited a laboratory, we would propose that States enact statutes that would create a presumption of validity of that test, subject to the attack by the absent parent within 20 days of the filing of the report. One State has already passed such a statute, Minnesota—it states that if the laboratories are credited by the standards for parentage testing of the American Association of Blood Banks, then it is admitted into evidence without further proof. And we would propose that in national legislation.

Concerning blood testing costs, we note in our testimony that the regulations have been published concerning—or we anticipated that the regulations which were published yesterday would deal with the issue of blood testing cost. That has certainly been a problem in interstate paternity, in assessing the cost of who would pay for the blood test, and how that is to be done.

Certainly location is of primary importance in establishment of child support awards State to State. If you can't locate, you can't bring into court and secure a child support order.

We have provided written testimony concerning some proposals to the INTERNET system, and the NLETS system, which we would ask this committee to consider.

We've also addressed the question of interstate income withholding. I think that's been covered well in testimony this morning and this afternoon.

Of primary importance, I would call your attention to our testimony concerning military regulations. I'm a former judge advocate general's officer, and I would ask that Congress direct, or our organization would ask that Congress direct the Office of Child Support Enforcement to organize a task force to look at redrafting the military regulations that are currently in force concerning military service members.

Looking at the regulations, one finds that the regulations are primarily written to address the issue of the service member being charged with paternity, or at least being addressed as an absent parent and an alleged father.

We would ask that those regulations be reconsidered by the committee, and a task force authorized to help redraft the regulations.

In our concluding remarks we would also urge that continued training we offered by the Office of Child Support Enforcement throughout all of the levels of the child support program, particularly down to the levels where the child support worker deals with the cases on a day-to-day basis.

We certainly thank the committee for allowing us to appear here today, and we'll be happy to answer any questions.

[The statement of Gordon F. Bailey follows:]

STATEMENT OF THE EASTERN REGIONAL INTERSTATE CHILD SUPPORT ASSOCIATION

On behalf of the Board of directors and over 400 members of the Eastern Regional Interstate Child Support Association, we wish to thank the Sub-Committee on Public Assistance and Unemployment Compensation for this opportunity to provide the association's perspective on interstate child support enforcement and commend the members for their continuing interest in this vital issue.

It is universally acknowledged that the problems encountered in establishing and enforcing child support orders are exacerbated when the obligated parent resides in a different state from that of the custodial parent and child. Given the mobility of parents in society, both for valid reasons and as a method of avoiding financial and parenting responsibilities, the issue of interstate case processing is critical.

By the passage of the Child Support Enforcement Amendments of 1984 and the subsequent Bradley Amendments, Congress recognized both the need for states to pass more effective laws and the myriad of special problems created when more than one state is involved in a particular case. The special appropriation for interstate demonstration projects evidences Congressional acknowledgment that the 1984 Amendments did not contain final solutions to successful prosecution and enforcement of these obligations. One should not lose sight of the fact that interstate child support enforcement is encumbered by substantive state laws that either pre-date the IV-D system (as in the case of the Uniform Reciprocal Enforcement of Support Act (URESA) and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA)) or are so new as to remain relatively untested (i.e. interstate income withholding).

As a not for profit corporation which has promoted the development of effective family and support programs for 25 years, Eastern Regional has retained its interstate focus. Its annual seminar has served as a forum to improve communication and cooperation among states and jurisdictions bordering on and east of the Mississippi River, to propose reforms in the courts and child support enforcement systems and to advance training and professional knowledge for all persons actively participating in the child support arena. This work has grown in complexity as services and relief offered under Title IV-D of the Social Security Act have been grafted onto traditional remedies provided under URESA in its original and revised version. Through the active participation of judges, public and private attorneys, support staff and child support professionals, Eastern Regional offers an important perspective on how both URESA and interstate IV-D remedies work at the state level and what improvements are needed to provide long term solutions to the establishment and enforcement of paternity and child support obligations across state lines.

In evaluating the current status of interstate child support enforcement one must remain cognizant of the legal and procedural dilemmas presented by such cases. The establishment of paternity and the setting and enforcement of an original or modified obligation is controlled by the law of the state where the obligor is found. URESA provides a unique legal mechanism whereby the custodial parent can plead a case across state lines; as such, interstate cases are burdened by all the inevitable deficiencies of a "paper case" as well as by potential home state bias in the responding state.

While interstate income withholding and tax intercept (and even the recourse to federal courts under 42 USC Section 660) are designed to strengthen and often streamline the process of enforcement, these remedies are only applicable where there is an existing order and the obligated parent and/or the parent's income can be located. Likewise, state long arm statutes, which require the obligated parent to litigate child support matters in the jurisdiction where the child resides, can be used only under specific, limited factual situations. The Office of Child Support Enforcement (OCSE) demonstration Grant projects, such as those of Delaware and Michigan, which were awarded in part to analyze and encourage the use of such remedies are important and should be expanded. However, unless Congress determines that federal courts will take jurisdiction over interstate child support cases, URESA remains the only legal remedy available to a significant number of litigants. One must not misconstrue the need to update this uniform act as a desire to eliminate it.

In preparing this testimony, the board of directors of Eastern Regional considered recommendations proposed by its membership, OCSE, Congress, other child support organizations and advocates and in particular, the Alabama URESA Paternity Establishment Grant Project. It is our belief that the suggested changes together with the issuance of final interstate regulations should provide meaningful solutions to many of the interstate dilemmas.

## STANDARDIZED URESA FORMS
## REQUIRED USE IN ALL INTERSTATE CASES

The Eastern Regional Interstate Child Support Association wholeheartedly supports and endorses the effort to develop, publish and distribute standardized forms to be used in all interstate cases. In one of the best examples of state/federal cooperation, these forms were recently drafted by a committee comprised of child support professionals from across the nation working under the auspices of the OCSE. The forms are designed to ensure that the out of state petitioner provides a sufficiently detailed "paper case" to enable the responding state to establish paternity, set an appropriate and equitable amount of support in accordance with that state's child support guidelines, and/or to enforce an existing order.

The importance of standardized forms can not be over estimated. Indeed, the Association commends OCSE for active support and guidance of this project. Clearly, there must be provisions for ongoing review and update to ensure that the forms comply with substantive state law requirements. These forms also provide the assurance that the out of state petitioner will receive a copy of the support/paternity order which again will enhance equity and improve effective litigation. It is the Association's recommendation that the use of these forms be mandated by federal regulations, with a provision for ongoing review and update to ensure compliance with substantive state law requirements.

In addition to the standardized URESA forms which have been distributed by the Office of Child Support Enforcement, the Alabama URESA Paternity Establishment Grant Project has developed uniform blood testing forms including those used for identification of the parties, worksheet for the test referral and the report cover sheet. These documents, after being reviewed and published should likewise be mandated in the interstate regulations for use by all states.

## STANDARDIZED URESA FORMS
## ADMISSIBILITY OF TESTIMONY

Nevertheless, a traditional problem under URESA has been that, if challenged, the testimony (in whatever format) is not evidence in the responding state. Accordingly, it is the recommendation of the Eastern Regional that states be required to enact state law admitting as evidence in an interstate action, all affidavits and testimony submitted on the standardized URESA forms, including the affidavit of paternity and testimony. The admission shall, of course, be subject to the right of the respondent to require petitioner's "appearance" by deposition, interrogatories, tele-conferencing or videotaped testimony, as the court may deem appropriate. Coupled with the increased use of telecommunications in the Courtroom, many of the current difficulties in achieving effective action and equitable orders could be overcome.

## REDRAFTING URESA
## TASK FORCE

**IT IS RECOMMENDED THAT A NATIONAL TASK FORCE BE APPOINTED IMMEDIATELY TO DRAFT A MODEL INTERSTATE LAW, TO REDRAFT URESA/RURESA OR IN THE ALTERNATIVE TO PROPOSE THAT ALL STATES BE REQUIRED TO ENACT SPECIFIC LEGISLATION TO PROMOTE EFFECTIVE INTERSTATE ENFORCEMENT.**

The term Uniform Reciprocal Enforcement of Support is actually a misnomer. Arguably, the act is neither uniform nor reciprocal. Even if URESA/RURESA were a timely and comprehensive law, only 24 states have adopted the 1968 RURESA. Additionally, only 33 states have adopted in some form Section 27 of RURESA which permits states to adjudicate paternity in a contested interstate paternity proceeding, provided sufficient evidence is available in the responding state. Not all states are adjudicating paternity in interstate cases; but those states that have not enacted Section 27 of RURESA are accomplishing this by caselaw or reference to another statute (i.e., an existing paternity statute or a version of the Model Uniform Parentage Act or the Uniform Act on Paternity).

Of course, as previously pointed out, URESA/RURESA predates the establishment of the IV-D program in 1975 and the Child Support Amendments of 1984 which mandate a series of effective enforcement remedies including intrastate and interstate wage withholding. Again, URESA/RURESA were promulgated prior to the accepted and widespread use of HLA blood testing to assist the Court in the establishment of paternity. The versions are silent on Court ordered blood testing, the enforcement of a Court ordered blood test as issued in the responding state to the prosecuting witness in the initiating state, the establishment of chain of custody requirement for interstate blood testing, the presumption of validity of a blood test based on a test certified by an accredited blood testing laboratory, the admissibility of blood test results in evidence and presumptions of paternity based on a certain percentage inclusion rate. Furthermore, as previously discussed herein, neither URESA nor RURESA provide for the electronic transmission of testimony either by video tape or telephonic means.

Eastern Regional firmly believes that a re-draft of URESA/RURESA or a proposed new model interstate law to be adopted by all states could be drafted within 12 months after the task force was commissioned by Congress rather than the two (2) years currently proposed in HR 1720. Possible task force members should include representatives from Congress, the National Conference of Commissioners on Uniform State Laws, the National Conference of State Legislatures, the National Center for State Courts, the Family Support Administration, the Office of Child Support Enforcement, Eastern Regional Interstate Child Support Association, the National Child Support Enforcement Association, the Western Interstate Child Support Enforcement Council, the National District Attorney's Association, the American Association of Public Welfare Attorneys, the Conference of State Court Administrators, the National Association of Women Judges, the National Council of Juvenile and Family Court Judges, the State IV-D Directors' Association, the American Association of Blood Banks, the American Society of Histocompatibility and Immunogenetics,

## REDRAFTING URESA
## VIDEO-TAPING TESTIMONY

**IT IS RECOMMENDED THAT URESA/RURESA BE AMENDED OR REDRAFTED TO INCLUDE A SECTION ALLOWING VIDEO-TAPED TESTIMONY OR TELECONFERENCING.**

Neither URESA nor RURESA provide for the electronic transmission of testimony, either by video-tape or telephonic means from the initiating or responding state. Through the Alabama URESA Paternity Establishment Grant Project considerable research has been conducted into the feasibility of utilizing video-taped testimony or teleconferencing as a method of presenting the prosecuting witness' testimony to the trial Court in the responding state. With assistance from the Alabama Law Institute, it has been determined that, to date, forty-one (41) states have made some provision by statute or rule for recording depositions by audiovisual means. Of these, thirty-four (34) provide in substance merely that deposition testimony may be recorded "by other than stenographic means."

The National Conference of Commissioners on Uniform State Laws has adopted the Uniform-Audiovisual Deposition Act or Rule, which addresses the novelty and technical problems surrounding the audiovisual recording of deposition testimony by creating more or less detailed procedures concerning such matters as notice, participation, internal authentication, editing, certification, custody, and cost allocation. Only two (2) states have enacted the Act, although five (5) others have enacted similarly detailed procedural schemes, and twelve (12) accord official status to an audiovisual recording. Since URESA, RURESA and the Uniform Parentage Act (UPA) are silent on this issue a proposed section should include giving notice for testimony, the right of confrontation of witnesses by the alleged father, the procedure to be followed for the admission of videotaped testimony, and provisions for telephonic transmission of testimony from state-to-state.

Eastern Regional has reviewed the Grant Project's findings and specifically supports the Project efforts to amend URESA/RURESA to allow video-taped testimony or teleconferencing.

## REDRAFTING URESA
## INTERSTATE MODIFICATION OF CHILD SUPPORT ORDERS

In the area of interstate case processing in particular the issue of application of guidelines and modification of support order is of critical importance. Just as common sense and fundamental fairness require consistency within a state, children in other states should be insured equal protection by the courts. The level of the child support award should not be dependent upon the nature of the proceeding in which it is obtained, the skills of an advocate or the fact that the petitioner is precluded by distance from being physically present in the court room. As within a state where existing law either bars modification of a support order without a showing that the original award is unconscionable, in interstate cases the availability of modification is even more limited. Either by direct federal action or by a redrafting of URESA, Congress should make clear that children are not precluded from the regular review and update of support orders just because the obligated parent has moved to or resides in another state. Outside of paternity and improved technology the assurance of adequacy of support orders throughout a child's minority is the most important issue to be addressed in the existing system.

## PATERNITY
## PRESUMPTION OF PATERNITY

There can not be a more important task for a child support agency than to establish the birth right of children born out of wedlock, regardless of the immediate financial potential. For a myriad of reasons well known to Congress and all childrens' advocates it is recognized that paternity should be established as early as possible regardless of the costs or procedural difficulties. As complex as paternity cases are when all parties reside in the state the difficulties are compounded when the alleged and/or presumed father resides beyond the borders of the child's home state. In all discussions of welfare reform, the social benefit of this process has been recognized. Likewise it has been well established that these cases are often not cost effective in the year the petition is brought, however, paternity establishment is an investment in the future. The recognition that states may not prioritize interstate paternity matters to such a level that they never see "the light of day", OCSE must recognize that financial support must be given to states as a carrot... together with the mandate for tougher case processing standards. Within various welfare reform proposals there are a series of financial incentives which Eastern Regional supports as a recognition of the increased costs of this litigation. Such proposals include a credit of $100.00 per month for 12 months toward a state's collection, a disregard of the blood testing costs from a state's administrative costs and enhanced rate FFP for blood testing costs.

**RELATED TO PATERNITY TESTING CONGRESS SHOULD MANDATE THAT STATES ENACT A STATUTE WHICH CREATES A PRESUMPTION OF PATERNITY IF THE BLOOD TEST INCLUSION RATE (PROBABILITY OF PATERNITY) IS AT OR ABOVE A DESIGNATED LEVEL. THIS PRESUMPTION MAY BE REBUTTED ONLY BY CLEAR AND CONVINCING EVIDENCE.**

HB 1720 contains such a provision with the percentage probability set at 95%. The Association recommends this level at a minimum. In determining this percentage, the Board acknowledges the complex issues to be resolved and interests to be weighed. First, it must be remembered that the tables used by blood testing laboratories to arrive at the paternity index are currently not part of any accreditation process. Therefore, Congress and/or OCSE may wish to look at the development of standards to guarantee greater uniformity in that area before or simultaneous with the passage of a fixed percentage. The balance that must be achieved is to establish a number that is high enough to insure fairness to the alleged father while not encumbering states with a requirement for unnecessary and expensive over-testing so as to meet the presumptive standard. Furthermore, it must be remembered that paternity litigation is often done by jury trial. The index should not be so high that large numbers of cases risk a finding of non paternity because jurors misunderstand the failure to meet a presumptive status as a failure to establish a father-child relationship and result in a finding of non-paternity. While the board believes that the percentage should fall between 95% and 98% no consensus was obtained on the exact percentage.

## PATERNITY
## ACCREDITED LABORATORIES

**CONGRESS SHOULD REQUIRE STATES TO ENACT A STATUTE THAT PROVIDES THE FOLLOWING: IF PERFORMED BY A LABORATORY ACCREDITED BY THE AMERICAN SOCIETY FOR HISTOCOMPATIBILITY AND IMMUNOGENETICS (ASHI) OR THE AMERICAN ASSOCIATION OF BLOOD BANKS (AABB), THE BLOOD TEST RESULTS ARE PRESUMED TO BE VALID, SUBJECT TO SPECIFIC OBJECTIONS FILED BY ANY PARTY WITHIN 20 DAYS OF THE FILING OF THE REPORT WITH THE COURT OR SERVICE ON THE PARTIES.**

This section is designed to eliminate the need to prove chain of custody or validity of test results if the report is certified by the lab director of an accredited lab, thereby eliminating the need for expert testimony unless the results are challenged. It should be noted that states will not be required to use an accredited lab; rather, they are encouraged to do so by the creation of the presumption. This provision should streamline paternity adjudication, particularly in interstate cases, without limiting due process rights.

It should be recognized that there is currently no accreditation agency or procedure for deoxyribonucleic acid (DNA) testing. This recommendation is not designed to inhibit the effective and appropriate use of that technology. However, this proposal recognizes that the acceptability and validity of DNA testing needs to be developed in the courts over the next few years before reaching a status appropriate for the creation of a presumption. However, any statutory provision should be flexible enough to permit such a presumption once DNA testing is accepted and an accreditation agency has been established.

## PATERNITY
## INTERSTATE REGULATIONS RE: BLOOD TESTING COSTS

OCSE is commended for directly addressing in the new interstate regulations the issue of the advancement of the costs of blood testing in interstate cases. We look forward to working with OCSE in clarifying the procedures by which this process will take place so as to eliminate undue delay and conflict between the states.

Again the regulations are anticipated to reinforce the effective use of paternity adjudication pursuant to the long arm provisions of such model acts as the Uniform Parentage Act (UPA). As previously stated, several demonstration grants are researching at the effective use of such remedies although there will be an ongoing need for the training as to the appropriate identification of cases and the selection of the most appropriate remedy. Nevertheless while Congress may wish to encourage all states to adopt model legislation (i.e. UPA) considerable additional legal research is necessary to insure that what appears to be expeditious will not in the long run deny children their birth right should paternity adjudications achieved by default under broad long arm statutes be later found to be unenforceable.

## LOCATION OF THE ABSENT PARENT

Goodwill and strong laws between states aside, the location of an absent parent or his or her assets is a condition precedent to any interstate action and perhaps the weakest link in the current program. HB 1720 proposes access to the Department of Labor's INTERNET system for the federal parent locator system. Similar access may wish to be considered to the criminal justice system at least for motor vehicle registration through NLETS. Eastern Regional strongly supports any and all efforts to improve the ability to locate an absent parent who is attempting to avoid financial responsibility by crossing state lines.

## INTERSTATE INCOME WITHHOLDING

Many of the enforcement remedies of the 1984 Amendments such as interstate wage withholding operate outside the provisions of URESA and represent a streamlined and effective way of approaching the enforcement of child support orders. It is unavoidable to conclude that the great promise of interstate income withholding has not yet been fulfilled. Quite frankly, this remedy is not being used often because states have little or no understanding of the legal and procedural requirements in the 50 states. While there appears to be "paper compliance" with the comity requirement for states to enforce the withholding orders of sister states, only 6 states have adopted the Model Interstate Income Withholding Act developed by the American Bar Association. Eastern Regional believes that it would be extremely helpful if Congress would clarify that interstate wage withholding was initially designed to preclude a requirement by a state to domesticate a sister state's support order in order to enforce that order through wage withholding. The potential for this remedy can not be over-stated once states have been educated to use it effectively and convinced that by selecting this remedy the underlying support order is not at risk of modification.

## MILITARY REGULATIONS

**IT IS RECOMMENDED THAT CONGRESS DIRECT THE OFFICE OF CHILD SUPPORT ENFORCEMENT TO ORGANIZE A TASK FORCE TO COORDINATE WITH THE DEPARTMENT OF DEFENSE THE REDRAFTING OF CURRENT MILITARY REGULATION PERTAINING TO THE ESTABLISHMENT OF PATERNITY AND CHILD SUPPORT.**

The Board recommends that this committee direct the Office of Child Support Enforcement to immediately appoint a task force to review and redraft the current Armed Services' regulations pertaining to the establishment of child support. The current regulations do not set forth procedures to assist a military dependent or service member in the establishment of parent-child relationship as these regulations only deal with paternity complaints or civil actions filed against a service member. That is, the regulations are written from the prospective of a service member denying paternity but do not set forth procedures to assist a service member or dependent in the establishment of paternity.

The regulations do not authorize assistance or involvement by the Judge Advocate Generals Corps or the Medical Corps in blood testing or other legal actions to resolve disputed paternity claims. For example, the Medical Corps of each service should be authorized to draw or transmit blood samples where a service member is one of the tested parties. Furthermore, there are no provisions for assistance in answering interrogatories or depositions where a service member is a party to a paternity action.

It is also recommended that the regulations allow command involvement to authorize leave where the mission will not be compromised in order to resolve a disputed paternity claim. While the Soldiers' and Sailors' Relief Act provides a legal avenue to protect a service member overseas, it is recommended that the military services encourage the service member to resolve paternity claims on the merits in order to establish paternity and provide proper child support. It is also recommended that the regulations specifically authorize involvement by social action officers to provide counseling of individuals involved in disputed paternity claims and to establish educational programs concerning the need for establishment of paternity and the importance of promptly resolving such disputes.

It is further recommended that the regulations provide access by the Office of Child Support Enforcement to the World Wide Locator Services in order to quickly locate service members who have been named as an alleged father in a paternity proceeding.

## TRAINING AND DEMONSTRATION GRANTS

**IT IS RECOMMENDED THAT CONGRESS DIRECT OCSE TO CONTINUE AND STRENGTHEN TRAINING FOR CHILD SUPPORT PROFESSIONALS IN BOTH THE JUDICIAL AND ADMINISTRATIVE PROCESS AND CONTINUE DEMONSTRATION GRANTS.**

The Eastern Regional Interstate Child Support Association strongly believes that the training of child support professionals is the key to effective interstate enforcement. While the national child support organizations conduct various training seminars and conferences, Eastern Regional believes that much needs to be done in this area. Specifically, training should be conducted at the State and local level under the national direction of the Office of Child Support Enforcement. This training should involve child support prosecutors, judges, administrative hearing officers, and the IV-D child support staff at all levels.

For example, if the standardized URESA forms are mandated for use in all states as proposed and recommended by Eastern Regional, it is our belief that extensive training will be necessary in order to insure that all offices in the national child support effort are utilizing the forms to their full potential. Furthermore, it is the Eastern Regional board's opinion that the failure to effectively utilize the interstate income withholding procedures is due in part to a lack of training and knowledge by the child support worker in the local office to recognize and appreciate the collection remedies available in each particular case.

The Eastern Regional board applauds the prior sincere interest of the OCSE in assisting this organization in its annual training seminar and would urge this Committee to direct OCSE to expand training programs for all levels in the interstate enforcement effort.

Likewise the demonstration grants have just begun providing significant returns. The effective use of these grants have been somewhat inhibited due to the fact that the funds received must be charged against the state's administrative costs. Eastern Regional strongly supports continued grant funding provided that receipts are not charged as administrative costs.

## CONCLUDING REMARKS

In closing, Eastern Regional expresses its sincere to the sub-committee for the invitation to participate in these hearings. While these comments have been lengthy, the Board's recommendations hopefully will prove useful in strengthening the national child support enforcement. It is clear that procedure, process and political will aside, there are substantive legal issues that inhibit the effective establishment of paternity in interstate cases and warrant federal mandate to modify existing state law. In significant part the impetus to move constantly forward is a direct result of a nationwide concensus on the potential this program has to better the lives of all custodial parents and children. Review and innovation must be ongoing and an equally critical task is to reinforce the remarkable public policy achievements of the 1984 Amendments through education enforcement and continued financial commitment.

Eastern Regional looks forward to working with all individuals and organizations committed to bettering the lives of the nation's children through establishment of paternity and securing an appropriate amount of child support. The foregoing recommendations, developed in part under the Alabama URESA Paternity Establishment Grant Project, have been approved and recommended by the Executive Committee of the Eastern Regional Interstate Child Support Association's Board of Directors.

Mrs. **Kennelly**. Thank you, Mr. Bailey.

Ms. Haynes, who do you give these courses to?

Ms. **Haynes**. The interstate courses that we deliver are geared toward prosecutor support staff and court clerks. We usually have a few attorneys attend the course, but it is not designed specifically for a legal audience.

Mrs. **Kennelly**. I did not hear, could you repeat that?

Ms. **Haynes**. The court clerks who handle the paper flow, and the prosecutor support staff, because those are the people who often are actually filling out the petitions, the legal documents. If there are problems in the legal documents, it has a ripple effect all the way down the line and speak at National and State child support conferences.

We also do continuing legal education programs for attorneys.

Mrs. **Kennelly**. I think you heard some of the testimony this morning. These individuals that you give this course to, did you find that they needed the course quite badly, or was it to improve their knowledge?

Ms. **Haynes**. They definitely need the training. There's a lack of knowledge about Federal and State child support laws. Another problem is just the number of agencies that are involved in these child support cases, and the lack of communication among them.

We've done training before clerks offices who want to know what an IV–D case is. Well, IV–D has been around since 1975, and they still don't know what IV–D means.

You have turf battles that go on, so people in the clerk's office know what they do, but they don't know what the prosecutor's office does, and really don't want to know. Because there is no coordination, services are unnecessarily duplicated or are not provided at all.

So we have found that the training educates people in ways that they very much need. It also has stimulated discussion among the various agencies involved with child support. So that a lot of times after we do a training, and we're doing followup, we find that they have changed their forms in response to our suggestions, or they have redesigned their system for handling cases.

Mrs. **Kennelly**. You gentlemen had rather upbeat testimony compared to what we had this morning. Tell me, is it more difficult to establish an order across State lines?

Once that's established, can you collect? Where is the problem, the beginning, the middle or the end?

Mr. **Arenstein**. Well, it's time consuming, and it takes time, to file an order in the initiating State, wait for the responding State to get it, and then get your order and then go to enforce it.

It's a lot quicker if you have a private attorney, obviously not IV–D, to go across state lines. But it does take time to establish an order, yes.

Mrs. **Kennelly**. But once established?

Mr. **Arenstein**. Once established, it's a lot easier and quicker to enforce it, than it is to establish it.

Mrs. **Kennelly**. Now, you talked a great deal about the URESA laws, really kind of relied on them to solve certain problems that we are faced with.

Do we have any assurance, A, that the States will pass the laws; B, that they will pass laws that are similar and alike, or will solve some of the problems we've heard about this morning?

It's fine to have answers, if answers bring forth what we're looking for, child support. Are you confident?

Mr. BAILEY. I certainly can't guarantee you that the States will enact the legislation that we propose. I think that one alternative may be to approach the problem as you did the 1984 amendments, and require States to have certain provisions in their State laws, such as the presumption of paternity, which would greatly enhance the speed and effectiveness of establishing paternity in interstate cases.

You cannot get a child support order, obviously, without establishing paternity. And we did a study of 1,500 cases involving interstate blood testing, and we found that the average age of the child in those cases was about 5 years. Which tells us that it takes about 5 years in those cases to have the child tested.

I would dare say that in most cases intrastate, the age of the child is much less. The average age of the mother was 27 years; the average age of the father was 30 years.

So that shows me that it takes a great deal of time to set up and establish an interstate paternity review.

Ms. HAYNES. I would agree with Gordon Bailey that there should be a Federal requirement of States to incorporate certain child support provisions into their law. I would also encourage the committee not to limit these provisions to IV-D cases, but as you have done with support guidelines, require them to be implemented in all support cases.

Mr. BAILEY. Could I ask Ms. Paikin to comment on that? I think that's one of her areas.

Mrs. KENNELLY. Certainly.

Ms. PAIKIN. In terms of interstate enforcement, I think what everybody forgets is that of the remedies that were enacted in 1984, including interstate income withholding which I think we all still hold hope for if we ever understand what everyone has done, none of those remedies, including access to Federal courts that was mentioned earlier, addresses the issue of initially establishing an order.

And to put it in perspective, what you have to understand happens is, a woman sits down and generally, fills out a piece of paper. Maybe she has somebody assist her. Someone else takes that piece of paper, mails it off to another State, where another individual takes it and goes into court and to adjudicate the amount of support as well as the paternity.

What has often happened, particularly if I am an elected official responding to an out of State child support petition, and the only citizen who votes for me happens to be the person obligated to pay support, needlessly to say, I don't have an enormous incentive for diligently prosecuting that out-of-State case.

OCSE has addressed that issue somewhat by providing financial incentives on both ends of the petition.

Also, quite frankly, it's a problem if you're trying these kinds of cases—and I'm a master who hears paternity, interstate cases, and child support matters—you have before you the live testimony of only one party.

Now, unless that party is incredibly inept and proves to be incredulous, what happens is, you have no balancing that goes on in terms of real, effective disclosure of income.

I come from a State where we do have representation for the out-of-State petitioner. And despite that, despite having an attorney general who prosecutes these cases, I believe that we probably end up with lower child support orders in interstate cases because we don't effectively have the other side of the case presented.

The interstate forms are not simply to try and get uniform pleadings. What they're designed to do is make sure that that prosecutor has a sufficient case.

Likewise, trying out techniques such as teleconferencing, which we're using now, should dramatically improve both the involvement and the quality of the litigation.

Also, quite frankly, the adoption of child support guidelines, as everyone has talked about, and in particular the requirement for their use as a rebuttal presumption, both in the in-State cases and in interstate cases, means that the judge or the hearing officer has to write down why they're not going to follow those guidelines. That should dramatically improve the situation.

Mrs. KENNELLY. Would you comment on the feasibility of having this done in the Federal courts to have some kind of uniformity? Somebody already laughed.

Ms. PAIKIN. No, it has often been my system—I'll defer to Bob. I have often said that, ultimately, if you wanted to do this in theory expeditiously, if you provide access to the Federal courts, you eliminate issues of home State bias.

I would suspect that you would have an enormous resistance from the Federal courts, who have traditionally stayed out of domestic relations matters. If you allow access, I assume you are prepared to provide Federal magistrates to hear these kind of cases. But it's a way of getting around current delays.

Mr. ARENSTEIN. The problem we're having at the state level right now, the courts are so cluttered with cases, that the Federal courts, if they took it on, they would have an immense problem, administrative problem, in handling the case load, I would believe, and it would cost the Federal Government quite a bit of money, which Congress might not be able to appropriate.

Mrs. KENNELLY. I almost didn't ask the question. We all know what we're up against.

Ms. PAIKIN. One possible suggestion, though, without dumping all of the cases into the federal system, you are allowed Federal access if you can certify noncooperation for enforcement purposes.

Now if you were simply to extend that statute to also allow you to go to Federal courts if there was noncooperation by the respondent State in establishing the amount of the order, or what is I think a bigger problem, that is, modifying the order, or even in establishing paternity, you would at least give an impetus for the responding State to act in a timely manner.

Be fully prepared, though, that there has only been one use of the Federal court remedy of which I am aware of. We've tried some cases, and had great difficulty getting them certified, even though the standard is that the responding State fails to do something within 60 days, which is amazing.

It's very difficult to get certified. In addition to that, assuming you get enforcement, you've got the whole issue of what do you do with the judgment that has not been worked out by the Federal courts in this country.

Mrs. **Kennelly.** Mr. Bailey, you mentioned that a district attorney, I think it was, called people to the meeting and they went to the meeting.

Can you enlighten us any further as to why Alabama seems to be doing as good a job as it is, since we're having such trouble across the Nation?

Mr. **Bailey.** Well, we don't have all the answers, I can assure you of that.

Mrs. **Kennelly.** We don't have any.

Mr. **Bailey.** And I don't mean to imply that we do. We have had a very vigorous, effective child support program, I think, for several reasons.

It's been made a high priority in our State. Several years ago, we had the musical group, Alabama, do a public service announcement for us. We couldn't think of a better group to do a public service announcement for us in our State.

We have a very active child support association. We have two meetings a year. I guess it's just an attitude from the State level down to the lowest worker.

There have been some comments about lack of commitment. But I don't find that to be true by and large in our State. I think our child support workers are committed. They have a tremendous case load. They are not adequately staffed. The workers I deal with have 500 or 600 cases per person to deal with.

I represent two counties. In one county, I'm responsible for 4,500 cases in all stages, active, inactive, and so on.

Mrs. **Kennelly.** There were some who might say that it's necessary in your State to pursue child support enforcement because your AFDC payments are so low.

Mr. **Bailey.** Yes, that's correct.

Mrs. **Kennelly.** Do you think one pushes the other?

Mr. **Bailey.** I think so.

Mrs. **Kennelly.** This might solve New York's problem.

Mr. **Bailey.** We found some very dreadful statistics when we argued our child support guidelines before our Supreme Court and urged their adoption as a judicial rule.

We found in one county we had an average child support award of $28 per month per child receiving public assistance. We think the guidelines will certainly do a great deal in bringing up that award.

Mrs. **Kennelly.** The average child support was $28 a month?

Mr. **Bailey.** Per child. For one child. That's in a very poor county. We think the guidelines will go far toward increasing that child support award.

But the main point that I'd like to make this afternoon is that the use of interstate forms will certainly speed and help transmit facts from State and State and pleadings from State to State, but it doesn't solve the State case law.

It doesn't change law. And you're subject in the responding State to the laws of that State, whether that State will adjudicate paternity, whether that State has or has not adopted the Uniform Parentage Act, whether or not that State has provisions to adequately adjudicate paternity.

Mrs. KENNELLY. Have you any other suggestions, any of the four of you, how we might proceed from here? Do you think the answer is additional law? Or is more encouragement of implementation of the 1984 law?

Just looking at it across the board, should we pursue what we did in 1984 and we hear this morning isn't happening? Or should we continue to change the law in hopes that something will happen?

Mr. ARENSTEIN. I think in the income tax withholding area and the other areas, you've got to encourage the States to open it up to both IV–D and non-IV–D obligees, so that basically everybody can get involved in the process.

And I really think you ought to take a critical look at URESA, and maybe think of some other way. URESA in my experience—and I've litigated URESA cases on both sides of the fence—is not working as well as it should work.

Maybe some way of nonmodifiability of orders, at least between States; if you get it modified in one State, you have two different orders. I've been in five different courts at the same time on one support case from New York and New Jersey, in the appellate division in the lower courts, and in the family court, and our trial court.

And really, I don't think it works. URESA is not uniform in all the States. You really don't have a uniform law. Maybe you ought to think about some sort of Federal mandate for a uniform law.

Mrs. KENNELLY. And mandatory?

Mr. ARENSTEIN. And mandatory, yes.

Ms. HAYNES. I think you need a combination of stronger enforcement of the 1984 amendments and new legislation.

Title IV–D required States to establish a child support program which would establish paternity, establish support, and enforce support, but use the laws States already had. With the 1984 amendments for the first time the Federal Government actually required States to change their laws to provide these services. So you have to expect some delay in implementation of the 1984 amendments.

But I think there definitely needs to be stronger encouragement from what's happening. Because statistics are very bad.

On the other hand, there are still some gaps from the 1984 amendments. Especially in the interstate area, there is definitely a need for new legislation.

Mrs. KENNELLY. I'm interested in this course you give. Are you the only administrator? You've hit 17 States. Are you paid to do it?

Ms. HAYNES. Yes. The American Bar Association child support project has a contract with the Federal Office of Child Support Enforcement. Part of that contract is that we provide training. To publicize the availability of this interstate course, we write the court administrators of every State; the IV–D director of every State; and the prosecutor offices of every State informing them about the course.

And we have always had a waiting list for the course. We're able to do 15 deliveries a year. It is our staff that does the training in the States.

Mrs. **Kennelly**. You all heard the women that testified before you. And they all more or less said that interstate hardly exists. You can talk about it, but it's very difficult to initiate; very difficult to collect. And yet now we get excited about URESA.

You still think that this could help a great deal?

Mr. **Bailey**. Well, I think URESA will always be with us. It needs to be, I think updated. We have to remember that as early as 1914, there was an effort by States to do something about parents that went from State to State, and you could not secure child support awards.

In 1950, as it was testified earlier, the commissioners on uniform State laws drafted the first URESA Act. It was revolutionary at that time.

And we're still dealing with that act in a number of States, even though it was before the IV-D act in 1975; before HLA blood testing; before videotaping of testimony; teleconferencing; all of the novelties that we have today in terms of dealing with interstate testimony.

URESA was basically written in 1950, before anyone envisioned this. And the fact that it works at all is somewhat remarkable, I think.

Mrs. **Kennelly**. But so you're saying, if the tool is there, if you upgrade the tool and make it more universal, it could be a vehicle for doing what we want to do?

Mr. **Arenstein**. A lesson from that is the UCCJA, which started out in various States, the Uniform Child Custody Jurisdiction Act, which started out in different States in different ways, and finally, in 1984, we had the parental kidnapping protection act, which brought it under one umbrella, under the Federal Government, and really unified it across the country.

That's a lesson from it that you might want to take looking at URESA to put it all together.

Mrs. **Kennelly**. Thank you. That's good advice.

Ms. **Paikin**. The lesson, though, that needs to be carried over from that, is that it's still be litigating in the court at the State level.

Mr. **Arenstein**. That's exactly right.

Ms. **Paikin**. Part of what needs to be remembered by all of us when we're very frustrated with the system and it's not better immediately is that you have State workers who need to obtain a comfort level legally with a lot of these new techniques.

Long arm has not been sufficiently tested to know whether if I use a long arm paternity statute and establish somebody's birthright and a support order by default, when I finally catch up with him in a State where I can locate his assets, if that court is going to recognize the order as valid.

So there's a reliance on the old tried and true remedy, because there's case law behind it. And I know that however long it takes, eventually it's going to work.

A lot of what Ms. Haynes does in States, and she has done significant training besides those 17 courses. The ABA provide an enormous amount of direct technical assistance at a variety of conferences and other kinds of State meetings that are fantastic. And the importance cannot be overstated.

But you have got to go from the bottom up and build case law. I think all of us discussing statutory changes are really talking about fine tuning. It may not seem that way, but we're talking about clarifying issues.

One of the things on interstate income withholding that could help——

Mrs. Kennelly. How do you say fine tuning, when we have statistics showing there is a large number of dollars not being collected; a huge amount of women not getting support for their children?

Ms. Paikin. What I mean in terms of the law, the proposals for statutory changes, in fact are incrementally a lot less than those made by the 1984 amendments. The changes that have been proposed by H.R. 1720 and the other welfare reform bills and some of the additional ones that we have proposed today are really just building incrementally on those remedies.

They are incredibly important, but that's just as Ms. Haynes said closing the loopholes, which you now have—because if you have no loopholes in the laws, you have no excuses by State IV–D agencies to do the job.

And then the problem is going back to the States and making sure that they are committed and educated and provide the resources, including in my view legal counsel to anybody who wants it, if full implementation of the 1984 amendments are to come about.

But you then have no ability for somebody to say, well, I can't do it.

Mrs. Kennelly. Thank you, that is very good.

Thank you all for coming. We really appreciate your testimony.

[Whereupon, at 1:14 p.m., the subcommittee adjourned, to reconvene at 10 a.m., Wednesday, February 25, 1988.]

# CHILD SUPPORT ENFORCEMENT PROGRAM

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THURSDAY, FEBRUARY 25, 1988

House of Representatives,
Committee on Ways and Means,
Subcommittee on Public Assistance
and Unemployment Compensation,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:04 a.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

Acting Chairman Downey. The subcommittee will come to order.

This morning the subcommittee continues its hearings on the child enforcement support program with the second in a set of three sessions. Last Tuesday, we heard testimony on the Child Enforcement Support Amendments of 1984 and the interstate enforcement of child support. Today, we will hear testimony on paternity establishment and improving enforcement and collections.

In the past 15 years, we have seen an unprecedented growth in children living with never-married mothers. It is estimated that today 2 million such families exist. And the problem is growing. Each year, about 800,000 children are born to unmarried mothers. Paternity is established in only about one-fourth of these cases. These children are highly likely to be poor and many will receive public assistance.

Studies indicate that more than 2 out of 5 white children and more than 4 out of 5 black children are likely to spend part of their childhoods in a family headed by a single woman. Nearly half of these families will fall into poverty after a divorce. Lack of child support from their fathers pushes many of these children into poverty. Clearly, improving the collection and enforcement of child support is critical to the well-being of a large portion of our Nation's children.

Today we hope to hear about ways to improve paternity establishment and child support enforcement. The hearing will continue on Wednesday, March 2, when we will consider the future of the child support enforcement program.

Before we begin, I will not ask if there are other members who want to make opening statements. When they are here, if they arrive, they can make intermediate or critical comments.

We are delighted—I am anyway—to have my friends and colleagues, Olympia Snowe, Marcy Kaptur, and Paul Kanjorski here to testify.

Olympia, since I saw you sit down first, we'll begin with you and then go to Marcy and then to Paul.

## STATEMENT OF HON. OLYMPIA J. SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Ms. SNOWE. Thank you, Mr. Chairman.

First of all, I want to thank you for allowing me the opportunity to testify before the subcommittee today. I will summarize my statement. I would ask unanimous consent to include it in the record.

Acting Chairman DOWNEY. Without objection, it is so ordered.

Ms. SNOWE. As you may know, Mr. Chairman, I recently introduced legislation that would address a serious problem regarding the mandatory withholding of child support enforcement payments.

I am committed, as all the Congress is, in ensuring the financial well-being and security of children. We must ensure and guarantee the security of our children in this country.

I am a strong advocate of the child support enforcement system. I think it's more than fair to require the noncustodial parent to adequately meet his or her financial commitments and obligations towards the children. This has obviously been a basic premise of the child support enforcement system.

I want to applaud you, Mr. Chairman, for holding oversight hearings on the successes and failures of the child support enforcement laws. Certainly improvements have been made, but I think further improvements are also necessary considering the fact, for example, that there has been a drop from 76 percent of payments actually received by families in 1983 to 74 percent in 1985.

Mr. Chairman, as you know, in 1984 when we passed the child support enforcement amendments, I think one of the most important reforms was the mandatory withholding of child support from wages when the amount owed equaled 1 month of support payments.

According to the Department of Health and Human Services, 51 States and territories have complied with this requirement. The law requires that, upon court order, employers of noncustodial parents must withhold a specified amount of child support from employees' wages each time an employee is paid.

This law further designates that the withheld wages are to be turned over to a designated State agency. Each employer must follow the prescribed procedures. The law does not specify when that money has to be transferred to a State agency. However, the Department of Human Services did require, through regulation, that this should be done within 10 days of the actual withholding.

Well, recently, several constituents brought to my attention certain problems with the system, particularly between the agency and the employer.

For instance, employers in many cases are not turning over their wages withheld for child support to the State agency within the prescribed time period of 10 days. In fact, some employers are not turning it over up to several months. There are employers who just forget the fact that they have to do it within the 10-day time period. There are employers who resent the role of being the collection agency and ignore the 10-day time requirement.

Let me show you some examples. I have an employer in my district who has six employees from whom child support payments have to be withheld. This employer has a habit of waiting as long as 3 months before transferring these child support payments to the State agency. In fact, there is another employer who has held these payments as long as 6 months.

There is also an example of an employer who forgets in my district, an insurance company, who was not aware of the fact that there was a time restriction of 10 days in which the money had to be transferred to the State agency. When this company was informed by the State agency that there was a 10-day requirement, he said he did not have the necessary computer facilities to make such a transaction. So he then asked the State to call every 2 weeks. Well, the State did call every 2 weeks. However, the payment was only received on a monthly basis.

I think it's important not to forget here who is suffering as a result of the lag and the negligence on the part of these companies who refuse or fail to transfer this money within the 10-day time frame.

The State does have the option of taking an employer to court. But that's not a very practical solution to this problem. Certainly you have to locate the resources to bring suit. When the time comes to go to court all the employer has to do is provide the amount of money and then the case is immediately settled.

Again, how does this resolve the day-to-day necessities for the children and the family involved?

So, as a result, I did introduce legislation, along with Congresswoman Roukema, to address this problem that would allow the Federal Government to establish a penalty. The penalty would be set forth by the Department of Health and Human Services similar to the guidelines already established in the 1984 amendments. Then these penalties would be transferred to the State agency.

I think this is the minimum that we can do under the circumstances, and considering what's involved, obviously it does affect the family. In many instances, the families would have to rely on Government assistance because they're not receiving adequate child support payments in a timely fashion.

I might also mention that employers, in the meantime, can also earn interest on this money. I might add that in the cases that I'm familiar with, they obviously did not transfer the interest that they earned on this money to the State and ultimately to the family.

So I would hope that the subcommittee would consider this reform. I think it's necessary for the well-being of our Nation's children.

Thank you, Mr. Chairman.

[The statement of Ms. Snowe follows:]

### STATEMENT OF HON. OLYMPIA J. SNOWE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. Chairman, I would like to thank you for allowing me the opportunity to testify before this Subcommittee today. As you know, I have recently introduced legislation that would address a serious problem with the mandatory wage withholding system.

I am strongly committed to ensuring that the financial security and well-being of our nation's children are guaranteed. Therefore, I am a strong advocate of effective child support enforcement.

In instances where one parent assumes custody of the children, it is more than fair to require the noncustodial parent to adequately meet his or her financial support obligations toward the children. This is the simple premise behind child support payments.

Responding to the overwhelming number of women and children living in poverty, Congress passed the Child Support Enforcement Amendments of 1984. This legislation was designed to deal with the failure of too many noncustodial parents to fulfill their legal responsibility to their children. This was primarily accomplished by requiring States to enact specific reforms aimed at increasing collections.

I applaud this Committee for holding hearings to review the success and failures of our child support enforcement laws. Certainly improvements have been made by the 1984 Act, but the drop from 76% of payments actually received by families in 1983 to 74% in 1985, combined with problems such as the one my legislation seeks to correct, demonstrates the need for further improvement.

As your committee knows, significant room for improvement exists. As of February 1, 1988 only 39 states have implemented all the mandatory requirements of the legislation. Five states have been officially notified by the Department of Health and Human Services that their State plans will be disapproved.

It is also important to note that only half of the women due child spport payments in 1985 received the full amount. In addition, about one third of mothers with children with no father present were living below poverty in 1985. Forty percent of these parents were awarded payments, but the average amount they actually received was $1,380, about two-thirds the amount received by all recipients of child support.

These statistics are striking, and even more so when you consider that the only recourse these families often have for survival is government sponsored welfare programs. Obviously, the current child support system needs additional improvement.

One of the most important reforms included in the Child Support Enforcement Amendments of 1984 was the mandatory withholding of child support from wages when the amount owed equaled one month of support payments. According to the Department of Health and Human Services, 51 States and territories have complied with this requirement.

The law requires that upon court-order, employers of non-custodial parents must withhold the specified amount of child support from an employee's wages each time the employee is paid. The law further requires the employer to turn the withheld wages over to a designated State agency. Each employer must follow this procedure. While the law does not specify when the wages should be turned over to the State, a Health and Human Services regulation requires this be done within ten days of the actual withholding.

Today, I would like to bring before you several examples of a specific problem related to the wage withholding process.

It was recently brought to my attention by a constituent that the mandatory wage withholding system was breaking down at the link between employer and State agency. For several reasons, employers in many instances are not turning over wages withheld for child support to the State agency within the prescribed ten day period. In fact, some employers are not turning over the payments for several months.

There are employers who just "forget" that this is required of them. There are also employers who resent the role of collection agent and ignore the ten day time limit.

Let me share some actual examples with you. There is an employer in my district who has six employees from whom wages must be withheld for child support. This employer has a habit of waiting as long as three months before passing the child support money on to the State for distribution to the families. There is another employer who has waited six months before forwarding the withheld wages.

An example of an employer who "forgets" to turn over the payment promptly is an insurance company in my district that was not aware of the time requirement, and as a result, was not complying. When contacted by the State, the employer claimed that he did not have the computer facilities necessary to turn the payment over in time. He then asked that State to call and remind him every two weeks that the payment must be sent to the State. The State calls, but the payment is still received only once a month.

I feel it is important not to forget that, in situations such as these, children are suffering while the employer can actually be earning interest on the money. The reality is that such a family could end up on welfare assistance.

The State does have the option of taking an employer to court in this type of situation, but this is not an effective solution. If the State is even able to locate the resources to bring a suit, all an employer must do is show up with a check for the amount owed and the case is considered settled. Again, how does this provide a family with day-to-day necessities?

Because I feel that this can no longer be ignored, I have introduced legislation, along with Congresswoman Roukema, that would establish a federal penalty for employers that do not turn over wages withheld for child support payments to the State within ten days.

The Department of Health and Human Services would be directed to set and collect a penalty from these delinquent employers; the penalty is set up along the same guidelines established in the 1984 amendments for delinquent parents. Such penalties would then be turned over to the States.

The continuation of court ordered child support payments to custodial parents is essential to the well-being of their children. As you look at the many problems facing the child support system, I hope you will consider this as a necessary reform to continue to ensure that children in single parent families are financially provided for.

Acting Chairman DOWNEY. Thank you, Ms. Snowe.

Ms. Kaptur.

## STATEMENT OF HON. MARCY KAPTUR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Ms. KAPTUR. Thank you, Mr. Chairman, and Congresswoman Kennelly.

I think all the Members of the House appreciate the tremendous activity of this subcommittee, not only on this issue, but on so many others. I think that you're doing a fantastic job, and I appreciate the opportunity to be here this morning and to speak up on behalf of children and families across this country.

When we were talking about welfare reform last year, some of the experts we met with told us that the AFDC rolls in this country could be cut by over half if we were to have adequate child support enforcement. That number stuck in my mind as an overwhelming figure. And I am very happy to be here this morning to try to help you build on the law to create a system which ensures that all parents, whether or not they live with their children, are legally responsible and obligated for the care and support of those children.

The reason I'm here this morning is because I'm particularly pleased that later you will be hearing from a remarkable woman from my district, Mrs. Geraldine Jensen, who is sitting in the audience, right here in the first row where she should be. She has probably more than anybody else I know in the country a wealth of knowledge about the child support enforcement laws, and this has been learned from hard-earned experience.

In 1984, Mrs. Jensen was a single parent living in my community of Toledo, Ohio. Seven years of dealing with local agencies had done very little to help her collect $12,000 in support payments owed to her family.

In frustration, she placed an ad in a local newspaper seeking other parents who had experienced similar problems in obtaining child support due them. The response she received was overwhelming, and that ad and subsequent meetings led her to create the Association for Children for Enforcement of Support, called ACES, which is headquartered in Toledo, Ohio.

From its first chapters in three Ohio counties, ACES has grown to 15,000 members nationwide with chapters in 35 States. In Ohio alone, there are now ACES chapters in 60 of 88 counties. This woman has literally built a voice for children and families across this country.

In the wake of the 1984 Child Support Enforcement Act, Mrs. Jensen's organization has provided parents and children owed child support with information about their legal rights and remedies under the law. ACES members have worked with 15 State legislatures in drafting bills to respond to the 1984 law, and have been involved in several multistate task forces set up to deal with interstate child support enforcement problems. ACES members have achieved a 70-percent success rate in obtaining support for their children.

Mr. Chairman and members of the committee, I particularly want to draw your attention to the recommendations that Mrs. Jensen will make in her testimony. There are 18 recommendations, and I won't go through them now, but I think some of them are particularly innovative, including suggestions to streamline child support enforcement agencies, including medical support enforcement under those agencies' responsibilities; improving procedures to establish paternity as well as credit bureau reporting requirements for nonpayers.

Mrs. Jensen and thousands of people like her have been on the front lines of child support battles for a couple of years now—I've been trying to get her on the Phil Donahue Show because I think she has so much to offer in helping this movement to grow. I believe that her knowledge and experience can further perfect the Child Enforcement Support Act and help the millions of children denied their rightful support.

Mr. Chairman and Congresswoman Kennelly and members of the committee, I really appreciate the opportunity to be here this morning and introduce Mrs. Jensen to you.

Acting Chairman Downey. Thank you, Marcy.

Paul.

## STATEMENT OF HON. PAUL E. KANJORSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Kanjorski. Mr. Chairman, Mrs. Kennelly, thank you for the opportunity of appearing here today.

I come to urge the committee to support legislation that I've introduced, H.R. 2955. It's a very mild adjustment to existing law. Current law, 42 U.S.C. 644, allows parents with custody of minor children to attach the Federal income tax refunds of noncustodial parents who are behind in their child support payments. These payments have been made up to date, and it's been a very successful program.

What we have found, however, is that over the course of years, many of the noncustodial parents have attempted to avoid their responsibility by removing themselves from the jurisdiction of the courts until the child is 18 and, thereby, out maneuver even the tax intercept system.

My bill would allow the extension of the right to attach income tax withholding for any child support prior to the age of 18 regardless of the age of the child at the time of the attachment. So it's a very minor adjustment, but it will accomplish a great deal and remove a lot of frustration, particularly for middle-class working parents.

In the last few days, I've been contacted by a number of outstanding working women. They have husbands who are professionals and have the means to move around this country and avoid attachment of wages, avoid support orders, and their children are now without that support. As a consequence, these women must not only support their children, but ultimately pay for their education where, rightfully so, their husbands should pay for it.

I have several letters supporting the change I have proposed, and I ask that they be made a permanent part of the record.

Acting Chairman DOWNEY. Without objection, so ordered.

Mr. KANJORSKI. I would like to briefly outline these cases now for your information. We have one young lady in Wyoming, PA, who is owed $8,500. Her husband is off to New Jersey, and has not been able to be served. He's been avoiding process. And when their children reach the age of 18, which some have already, he will miss that entire payment.

We have numerous similar cases. In Luzerne County, one hundred custodial parents came by the court of common pleas with an exceptional amount of debt, wanted to collect it and were told they couldn't use the tax intercept system because their children were over 18. Only 10 tried the process anyway. They could have collected over $100,000 in arrears. Eventually, they too were turned down.

In Westmoreland County, 36 cases of this sort amount to $250,000 in back support orders. Now, that's only two of 67 counties in Pennsylvania. And when you take the 50 States of the Union, this has got to be very close to the figures that everyone is talking about, that back support nationwide is estimated to be about $3.7 billion.

I think it's a disgrace. It's a disgrace for our society not to recognize that this is an obligation people accept when they undertake fatherhood or motherhood. And if they have the capacity to support these children, it seems to me it's proper for the Congress of the United States to extend the possibilities under the attachment of existing law to go beyond 18 to see that these obligations are met.

Some people say we'd be making a collector of the IRS. The IRS already is a collector, and as the IRS Commissioner said, it's a damn good collector and we ought to use it. This tax offset system operates at less than 1 percent cost, which is far less than any court of law I know that collects support orders.

If the welfare reform bill becomes law, we will have automatic wage withholding. Some will argue that the tax intercept program will no longer be necessary. But how effectively will automatic wage withholding collect back child support from self-employed husbands? There is no way to attach their wages if they're self-employed. The tax intercept program is a vehicle to do it.

I would suggest that, given all these arguments, there's no greater reason to extend the tax intercept program, than to ensure that the needs of our children are provided for. It is an matter of personal honor for America.

I'm pleased to say that the committee has been very nice in allowing a member of my community in Luzerne County, who is the director of our Luzerne County Domestic Relations Section, Mr. James Davis, to testify later on today. He's occupied that position for over 10 years, and I think he will be able to provide the committee and Congress with more documentation of how important this legislation is.

I want to thank the chairman and Mrs. Kennelly for giving us the opportunity to testify today. Thank you.

[The statement and letters of Mr. Kanjorski follow:]

# TESTIMONY OF

Congressman Paul E. Kanjorski

TO THE

The House Ways and Means Subcommittee on
Public Assistance and Unemployment Compensation

On Improving the Collection of Child Support

February 25, 1988

There is a tragic situation in our country today. Absent parents who have a moral and legal obligation to help support their children are not fulfilling this obligation by evading our legal system and simply refusing to pay. This means that parents who already have the emotional burden of raising a family alone, must also assume the financial burden as well.

Existing federal law (42 USC 644) allows parents with custody of minor children to attach the federal income tax refunds of non-custodial parents who are behind in their child support payments. This law is important because there is a great need for a highly efficient system to collect child support that will work even when payment is evaded. Indeed, according to a special study done by the Census Bureau, it was estimated that in 1985, approximately $3.7 billion was owed in back child support nationwide.

Unfortunately, the right to attach the federal income tax refunds of non-custodial parents expires as soon as the child reaches the age of majority, even if the parent still owes for child support accrued before the child became an adult. This unnecessarily restricts the effectiveness of the intercept program and causes custodial parents to lose the only method that they have, in many cases, to effectively gain the money that is owed to them.

One mother from Wyoming, Pennsylvania is owed $8,500 in back child support. Her ex-husband has failed to appear at court hearings in Pennsylvania and has moved to New Jersey. Attaching her ex-husband's tax refund is probably her only chance to obtain the funds she is owed for support of her child. Unfortunately, she will probably lose this money as soon as her child turns eighteen unless current law is amended.

Another mother from Dallas, Pennsylvania told me that she is forced to take out loans every year to support her family because she cannot obtain the child support she is owed. She claims that current law encourages her husband to miss payments and wait until her four children each reach the age of eighteen.

According to officials at the Court of Common Pleas of Luzerne County, in Northeastern Pennsylvania, last year well over 100 parents contacted their office seeking a means to collect the large debt owed to them by the absent parents. Unfortunately, the officials had to explain that they were ineligible for the tax intercept program because their children were over the age of eighteen. Of those 100 parents, 10 attempted to pursue this course anyway and applied for the program. They alone were owed $57,000. They were turned down.

The Court of Common Pleas of Westmoreland County, in Western Pennsylvania, has on file applications from 36 mothers who are ineligible for the tax intercept program because their children have reached eighteen. They alone are owed over $250,000 in back child support. When you consider that Luzerne and Westmoreland Counties are only two of Pennsylvania's 67 counties, you can imagine how large this problem is nationwide.

To address this restriction in the law I have introduced legislation, H.R. 2955, which would simply modify existing federal law to allow tax refunds to be attached for all child support obligations incurred before a child reaches majority, regardless of the age of the child when the income tax return is attached. In short, this legislation would make a good system even better.

Critics of my legislation have said that expanding the IRS intercept program will cause the IRS to become a debt collector and undermine its ability to carry out its primary function of tax collecting. However, for a number of years the IRS has collected debts owed to the federal government. Indeed, according to a February 1987 GAO report, the IRS has offset nearly 275,000 delinquent accounts and collected over $150 million in delinquent debts in its first year of operation. The cost of this collection to the IRS was only $1 million. This seems to support IRS Commissioner Egger's assertion that his agency is the cheapest collector of debts owed the federal government. Therefore, it is difficult to understand how this expansion will cause the IRS to become a debt collector. It already is one, and a good one.

Critics also say that we should proceed with caution because the custodial parents owing back support may learn to adjust withholding to avoid a refund. As I have said earlier the GAO has indicated that the IRS is an effective debt collector for debts owed to the federal government. Yet, those who owe money to the federal government could have learned to adjust withholding to avoid a refund and apparently did not. Perhaps in many cases it is simply not possible to do so. It seems to me that although GAO has not done a study specifically on the effectiveness of the IRS intercept system for child support, it stands to reason that this program has enjoyed a similar success as that of the offset system for collecting government debts. We should work to make it as effective as possible.

Critics of H.R. 2955 then admit that the IRS is a debt collector, but primarily for the federal government. They say that for a number of years the IRS intercept program has been used to collect child support owed to current and former recipients of AFDC because a debt was owed to the federal government and that this authority was only extended to to non-AFDC families on a trial basis.

This is illustrative of the fact that we in Congress have our priorities backward. Current law says it is acceptable to use the IRS as a debt collector as long as the debt is owed to the federal government, but that this successful method becomes questionable when its effectiveness might be used to help the people who need it most: the working poor. Further, we seem to be looking for ways to minimize the impact on the IRS rather than maximizing the effectiveness of this very beneficial program. The fact is, the tax offset system is in place because it is good public policy. It is an effective tool for collecting debts owed the federal government. The tax intercept system can be just as useful to help our nation's children who need the support of their absent parent.

Other critics point out that this program will no longer be needed because the Welfare Reform Bill includes provisions for mandatory wage withholding. I strongly support mandatory wage withholding. However, it is unclear whether or not this method will be completely effective. For example, how will mandatory wage withholding be enforced for those non-custodial parents who are self-employed? Why not have a duel track approach to ensure that child support is in fact paid.

It is clear that the IRS is an efficient debt collector for the federal government. Congress extended the tax offset program so that the great amount of money owed to custodial parents could be collected even when absent parents shirk their responsibility. This is good public policy and a good system which can be made even better by amending it so that arrearages can be attached until they are all collected, regardless of the age of the child. I strongly urge the subcommittee to carefully review my bill as expeditiously as possible.

JUL 1 REC'D

**PLEASE, DO NOT SEND ME A CHILD SUPPORT BOOKLET, I HAVE TEN.**

401 Susquehanna Avenue
Wyoming, Pa. 18644

June 14, 1987

To: U.S. Rep Paul E Kanjorski

Dear Sir,

ON. DOMESTIC RELATIONS / CHILD SUPPORT

I would like to bring to your attention the present laws concerning intercepting Income Tax Returns of fathers who are in arrearages with their child support payments. After the youngest child reaches the age of 18 years - a mother can no longer intercept the father's income tax return for arrearages due. I feel a mother should be able to attach this income tax return till the arrearages are PAID-IN-FULL, no matter how many years it takes, beyond the 18th birthday of the youngest child. WOULD YOU CONSIDER SPONSORING A BILL TO THAT EFFECT?

As of today's date the absent parent (the father) of my children owes child support arrearages amounting to $5,500.00 [illegible]
A PERIOD OF 3 1/2 YEARS. He was not paying court ordered child support payments, did not show up at two contempt of court hearings in Pa. and is now living in N.J. where the Pa. bench warrant is of no value. (But on May 23, 1987 he came to Pa., was recognized and was put in jail, later he was released on an $18,000.00 bond)

I have two years that I could attach his income tax then my youngest will be 18 yrs. old. His arrearages will still not be anywhere near paid in full and I hope he doesn't get away with not paying the balance which if he continues paying on his arrearages at $10.00 weekly, will then amount to about $[illegible]. I will have no way to intercept this money, if I cannot attach his income tax return. I'm sure that there are other mothers in the same situation. We need some sort of legislation to help us colledt this money from these fathers who refuse to pay for years and then get away with it because the children are beyond support age and the mothers have no legal way to collect this money.

"THE I.R.S. INTERCEPT SHOULD BE EXTENDED TILL THE CHILD SUPPORT ARREARAGES ARE PAID-IN-FULL."

I have sent copies of this letter to several Senators and Congressmen, with the hope that at least one person reading it would do something to help single mothers who have difficulty obtaining support to such a high amount of arrearages as myself. There must be more ridgid legislation to secure these high arrears and one of the best would be to continue interception of the tax refund till the father has paid his debt to his children IN FULL. I'D APPRECIATE YOUR REPLY.

Thank You,

Suzette Higdon

(enclosure)

Copies sent to:

#2 Raphael Musto, Pa.
#2 John Heinz, Pa.
#2 Arlen Spector, Pa.
#2 Paul Kanjorski, Pa.
#2 Bill Bradley, N.J.
#1 Kevin Blaum, Pa.
#1 Kevin Blaum
#1 [illegible]

#1 Stanley Jarolin, Pa.
#1 George Hasay, Pa.
#1 Thomas Tigue, Pa.
#1 Scott Dietterick, Pa.
#1 Charles Lemmond, Pa.
#1 -

**Court of Common Pleas of York County, Pa.**

**VICTORIA A. MASEK**
**DIRECTOR**
**JANE O. STOVER**
**ASST. DIRECTOR**

**In Replying Refer to**

**Case No.** ____________

**DOMESTIC RELATIONS SECTION**
P.O. BOX 1502
YORK, PA 17405

**Telephone**
717-846-0101

**Hours**
**8:30 A.M. to 4:30 P.M.**
**Monday Thru Friday**

NOV [illegible] REC'D

NOV 1 [illegible] 1987

November 13, 1987

Congressman Paul E. Kanjorski
10 East South Street
Wilkes-Barre, PA 18701

Dear Congressman Kanjorski:

The Domestic Relations Section of York County, PA wish to assure you that you have our support concerning your amendment to the House Welfare Reform Bill.

The IRS Intercept Program has been very successful in York County. However, we estimate that approximately five percent of our eleven thousand cases are arrears only. It is very difficult to collect these arrears. If your amendment is adopted, we would then be able to intercept the defendant's income tax return and liquidate the arrears for cases that involve children who are emancipated. We would also be able to intercept for arrears owed to plaintiffs who are supporting handicapped children who are emancipated.

Sincerely,
DOMESTIC RELATIONS SECTION

Joanne T. Pauley

Joanne T. Pauley,
Intercept Coordinator

OCT 28 REC'D

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P.O. BOX 8018
HARRISBURG, PENNSYLVANIA 17105

OFFICE OF
FRAUD AND ABUSE INVESTIGATION
AND RECOVERY

October 26, 1987

NOV 1 1987

The Honorable Paul Kanjorski
10 East South Street Building
Wilkes-Barre, Pennsylvania 18701

Dear Congressman Kanjorski:

Your letter of September 24, 1987 addressed to James M. Davis has been forwarded to me to secure additional data.

Since the expansion of the tax refund program in 1984, Pennsylvania has continued to increase case submittals. For the 1986 processing year, Pennsylvania submitted 7,885 non-AFDC cases. For 1987, we increased our submittals to 12,120 cases.

I feel we would see a significant increase in our submissions if the non-AFDC criteria regarding the age of the child were amended. This would increase collections and expedite reducing arrearages on support accounts that otherwise would only be reduced over an extended period of time.

In Pennsylvania a minor child is generally defined as under 18 years of age. Unallocated orders present a problem. No arrears can be certified on a case if the order covers two or more children and is unallocated and one child is age 18 or older. For example, Allegheny County feels that if age was not a factor in reviewing and submitting non-AFDC cases, they would increase their submittals by 50 percent. Dauphin County's submittals would increase by an estimated 25 percent.

Our records reveal that the largest non-AFDC offset in 1987 was over $13,000. The payment will be passed on to the Philadelphia County Domestic Relations Branch who will distribute in excess of $12,000 to the custodial parent.

Delaware County has 67 cases in which custodial parents were denied the benefit of the federal Tax Refund Offset Program because of the age of the child/ren covered under the order. Because of the confidentiality, I am unable to provide you with case details. If such detail is vital, please advise me and I will see if some custodial parents would share this information with you.

I feel federal regulations governing this program should be consistent. Non-AFDC cases should have to meet the same requirements as AFDC cases.

I am forwarding a copy of your bill and a copy of this letter to Mr. Robert Tucker, Chief of the Interstate Operations Unit, New York. You should be aware, however, that the State of New York is not affected greatly by the criteria of a minor. Their state law establishes majority at age 21.

Thank you for the opportunity to provide input on your proposed legislation. We appreciate your attempts to rectify the inequities of the non-AFDC tax intercept. If I can be of further assistance, please let me know.

Sincerely,

John F. Stuff, Director
Bureau of Child Support Enforcement

JFS/ECP/CAH/dl

cc: Mr. Robert Tucker, Chief
Interstate Operations Unit, New York
Mr. Gilbert M. Branche
Ms. Jeannine Bender-Davis

Oct. 23, 1987

Dear Mr. Kanjorski,

I am writing this letter with the hope that it will urge you to support HR 2955.

As a single parent trying to raise four children by myself I find it most discouraging that support arrlarges cannot be collected after a dependent reaches the age of 18.

It appears that many absent fathers choose to wait it out until a child reaches 18 years and they are off the hook, so to speak, as far as support is concerned. This is an atrocity to the children of this country.

Most families being supported by the mother alone are forced to live at sub standard levels. Many mothers such as myself are forced to take out loans year after year to keep these families afloat. Just because a child reaches the age of 18 does not mean they no longer require financial assistance.

Many of the loans incurred require payment long after the children leave. In my case I will be paying off loans for the next ten years at least.

Because support and arrearges were never really enforced the total finiancial burden falls on the mother.

The present system for aiding the children in families where there is an absent father leaves a lot to be desired.

Only through legislation can this issue begin to have the proper attention it deserves.

It is my sincere hope that mothers such as I (and there are many of us) will take the time to write to you to urge you to support HR 2955

Sincerely,

Gerry Bonavtage
Box 373s
RD#4
Dallas, Pa. 18612

**COURT OF COMMON PLEAS OF WESTMORELAND COUNTY**

**DOMESTIC RELATIONS SECTION**

Check Processing: P.O. Box 1104
Enforcement: P.O. Box 1165
(412)838-5370, 5373, 5376, 5391
Tax Intercept: P.O. Box 1165
(412)838-5394
Intake & Scheduling: P.O. Box 799
(412)838-5360

**JOHN C. GRAHAM**
Director

**JAMES R. WEAVER**
Assistant Director/Operations

**GARY M. KERNICKY**
Assistant Director/Fiscal

NOV 9 1987

November 5, 1987

Paul Kanjorski, Congressman
1518 Longworth Building
Washington, DC 20515

Dear Congressman Kanjorski:

On behalf of the Westmoreland County Domestic Relations Section, I wish to join with Jack Stuff, Director, BCSE, and my fellow DRAP board member, Jim Davis of Luzerne County, in support of your amendment to the House welfare reform bill.

Currently, we have on file applications from thirty-six mothers who are ineligible for the tax offset program because their child or children have reached eighteen years of age. The total arrears in these cases are $250,595.30. I suspect this is only a small portion of those affected since most do not bother applying after being told over the phone of the age restriction.

The reactions range from disbelief to outright anger and outrage-first at us, then at their legislators for creating such an inequity. Unfortunately it fosters, unfairly, a public notion that we are more concerned with recovery of public funds than we are with the welfare of their children. As we know, both are important. That is why I urge this effort toward equity in treatment.

There is, however, an additional inequity. Public Law 98-378, Section 21 (b)(2)(E), amended Section 464(b) of the Social Security Act setting a minimum threshold of $500 arrears for a non-AFDC offset request. Prior to that, the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35, Section 2331, amended Section 464 (b) of the Social Security Act to give authority to the Secretary of the Treasury authority, with the approval of the Secretary of Health and Human Services, to set the minimum threshold for AFDC offset requests. This was subsequently set at $150 by regulation at 45 CFR Part 303.72(b).

Both for ease of our already complex enforcement tracking systems and for a more equitable treatment of the public, I urge you to consider measures to bring these two thresholds in line. For consistency let me suggest changing the $500 non-AFDC threshold figure to be consistent with the already established "one month's support" standard for mandatory income attachment as stated in Section 3 of the Child Support Enforcement Amendments of 1984, P.L. 98-378. This would enable us to deal with self-employed defendants on the same basis as with wage earners.

In any case, we appreciate what you are doing to enhance the mission of child support enforcement.

Sincerely,

John C. Graham, Director
Domestic Relations Section

JCG/cp

cc: Jack Stuff, Director, BCSE
Bill Davison, President, DRAP

P.S. I trust Jonathan is working hard for you.

NOV 1 1987 October 27 1987

Dear Congressman Kanjorski, OCT 29 REC'D

I am writing to you in support of HR 2955.

It is unfair that the custodial parent and children are forced to live at a poverty level or below a poverty level.

My family has lived with a situation of this sort for a number of years.

Yours truly,

[illegible]
1014 S. College Street
Nanticoke, Pa. 18634

Acting Chairman **Downey**. Thank you, Paul.

I just have a couple of questions.

Maybe you agree then that there's a fairly extensive problem of late payment by employers? I think you alluded to it in your testimony.

Ms. **Snowe**. Well, this was only brought to my attention in January by a constituent. And then I was further informed of other examples by the State of Maine Agency on Human Services.

I just wrote a letter to Secretary Bowen, asking the department to begin to collect statistical information on this issue. So I don't know how far-reaching it is, and whether or not this is a problem that prevails in other States. I would guess that it does.

Especially as one of the companies brought to my attention is located in other States as well.

Acting Chairman **Downey**. So we're talking about bigger companies, not just mom and pop corporations?

Ms. **Snowe**. That's right.

Acting Chairman **Downey**. Let me ask you if you would give some consideration to the idea of charging daily interest instead of percentage penalty on overdue amounts?

Ms. **Snowe**. I'd have no objections to that. I was looking for more uniformity because this was the penalty set out in the 1984 amendments. But certainly I would, considering what we're talking about here. I mean frankly I'm appalled that any company would have done this in the past and to the extent to which they withheld these funds without any consideration of the impact on the family.

Acting Chairman **Downey**. Paul, we've discussed this matter, and I'm delighted that you've come here and testified. And we'll look at it again. I think that historically our problem has been twofold.

The committee has been very reluctant to get into the question of giving any additional duties to the IRS, which might, in some way, deter them from their principal responsibility of collecting tax revenue.

And one of the concerns that we have, and I don't know if you've examined this, is the question of IRS tax collections, what impact this would have. This is something we would want to examine.

You correctly point out the inequity of what happens if the parent avoids this process during the child's minority. Should they be exempt, just because the child reaches majority status, from using the IRS in this capacity. And I think you make a pretty good argument there.

My concern is that we spare no effort to make sure that this is done while the child is a minority. And I'm a little concerned that we are not—that all our attention be focused on that period. That's not to suggest that we couldn't possibly go after it later. I know you want to make some comments.

Mr. **Kanjorski**. One of the comments that I would make, Mr. Chairman, that I have heard from a number of people, is that often the mother may have a court order for four children, and they may be, say, 10, 14, 16 and 17.

That court order, quickly becomes invalid when they later attempt to use it to attach tax refunds because the oldest turns 18. They then have to go back to court to get a support order for the three children, separating out the 18-year-old. So that's an added burden and expense.

And all we're talking about is a very minimal amount of money that is attachable. How much withholding does the Government have on personal taxes? We're talking about an exceptional amount. But it's the last remedy, and instead of encouraging that payment, instead of making it very simple for the custodial parent to collect it, we seem to put every barrier in her way by forcing her to go back to court. And it's an expensive procedure.

I'm sure you practiced law, as I did. And I think the last thing lawyers would want to practice is domestic law because it is a burden on people. And as a result, it's difficult for these people to get the type of representation they need, and they expend in legal fees, what they would attach even if they were finally successful.

Acting Chairman DOWNEY. Well, we'll look at this again. I think you've made some good arguments, and I don't know exactly what the forum might be for us, but we'll definitely consider that.

Mr. KANJORSKI. Thank you, Mr. Chairman.

Acting Chairman DOWNEY. Barbara.

Mrs. KENNELLY. Thank you, Mr. Chairman. And thank you for appearing. I know that the witnesses today thank you, Mr. Downey, for having these hearings which we wanted very much, and you've put it right up front this session.

Paul, I just wanted to comment that your bill does bring something to my attention. When a child who has disabilities turns 18, and the burden is even greater to the mother, and yet legally they are discharged. So I thank you for bringing that to our attention.

Thank you very much.

Mr. KANJORSKI. Thank you.

Acting Chairman DOWNEY. Brian, do you have questions of the witnesses?

Mr. DONNELLY. No. I'd just like to welcome my colleagues to the committee. I appreciate you coming down.

There are two progressive States in the Union that have immediate wage withholding once a court orders support. It's a bizarre combination of States. Massachusetts and Texas. [Laughter.]

I think you have raised an excellent point to the committee. It's something that looks simple at first blush. The chairman has brought up some potential problems with it, but it's clearly something the committee ought to look at. Parents ought to be responsible for their children, and they ought to pay, not the taxpayers. They ought not use a loophole or a delayed court process to escape that responsibility.

Maybe we can look at it as separate legislation or in the context of the everlasting battle on welfare reform. I appreciate you coming down this morning.

Acting Chairman DOWNEY. I do as well. Thank you.

The committee will next hear from a panel comprised of Esther Wattenberg, professor of social work, Hubert H. Humphrey Institute in the University of Minnesota; Domestic Relations Association of Pennsylvania, James M. Davis; the Association for Children for Enforcement of Support, Inc., Geraldine Jensen, its national president; and Divorce Taxation Education, Inc., Marjorie A. O'Connell, president.

Ms. Wattenberg, if you would begin.

## STATEMENT OF ESTHER WATTENBERG, PROFESSOR, SCHOOL OF SOCIAL WORK, HUBERT H. HUMPHREY INSTITUTE, UNIVERSITY OF MINNESOTA

Ms. **Wattenberg.** Thank you very much for this opportunity to appear this morning on an item, paternity determination which is probably characterized by being an issue of conspicuous inattention.

There is no question that despite our absorption in child support enforcement and the Supreme Court decisions that have affirmed the equal protection right for nonmarital children, as well as our enormous concern with welfare reform—despite these concerns, the issue of establishing a legal link between the father and the child in an out-of-wedlock birth has been neglected.

And yet, as we see, the dimensions of this issue are really profound. From 1970 to 1986, the number of children living with an unmarried parent has increased fivefold.

Of particular interest is the fact that the composition of AFDC has, in an unprecedented sense, been shifted. We used to provide income maintenance for widows in the days of "Mother's Aid", then for divorced and separated women, now more than half of all caseloads in AFDC are made up of unmarried parents and their children. And that's why the issue in many, many ways is profound and pervasive.

It is a novel situation for public policy. Although the courts have paid extraordinary attention to it, the Supreme Court decisions have, over the past decade, affirmed under equal protection the rights of a nonmarital child. And the benefits that flow from the legal connection of a child to the father are really extraordinary. And yet, as we'll see, the procedural barriers, the lack of community expectations and the street knowledge lore about the dangers of affirming paternity have almost inhibited this country in making a recognition that almost all other Western industrialized countries do.

I think you all know the benefits that come from establishing a legal link, but let me mention a few of them. Social Security; if the father is in the Armed Services, an extraordinary number of benefits come, which includes health care and a maintenance grant; workmen's compensation, access to a health care plan, child support, of course.

An issue that I think is fading in value is the right of the child to carry the father's name. That doesn't seem to be as important as it used to be, but it still may be so in some communities.

Further, there is growing evidence that there are indirect and intangible benefits that may profoundly affect the child, namely we know now that genetic information may be extremely important, and from adoption literature we know that the yearning of a child to know the biological parentage is really quite deep and insistent.

Perhaps we should now pay attention to some issues that disclose why the incidence of paternity adjudication have been so slim. I should note that no more than 1 out of 4 or 1 out of 3 paternities, are declared, on average, around the country. In my prepared testimony, you will see all of the States and their various ratios. And they have fallen since the 1984 amendments to the Child Support Act, which, in fact, emphasized paternity determinations. Twenty-two States in the last count really have diminished their emphasis on paternity adjudication, despite some lip service that, in both the legislation and elsewhere, that it's an important issue.

Indeed, there are mixed assumptions about it. Stemming from the fact that we don't really know very much about the absent fathers, particularly of teenage parents. We know a few things. In many cases, they're much older.

Three-quarters of them in the two studies I looked at are over 20. And when one knows that there are 18 years of dependency for a child, one can quickly see that while the person, a male of 20, may not be at the height of his earning powers, he may very well be there in 15 years. But there is an extraordinary incidence that one must pay attention to, and that is the fact that paternity delayed is justice denied to the nonmarital child. And that is what the system now moves toward, extraordinary delay.

Procedurally we involve even those young parents that voluntarily come for paternity into a maze of regulations, shifting them back and forth between AFDC, the child support enforcement system, and the court system.

For young parents, the court system is extremely intimidating. Our research, which I will not go into now, demonstrates that for young parents the motion of being ensnared in any kind of court hearing has a chilling effect. Avoidance is the reaction.

Therefore, we look to the model laws, such as New York, which has removed paternity determination from the court system and developed hearing examiners in a somewhat consultative way in order to decrease the threat of intimidation.

I just will go through two or three highlights of my recommendations on how procedures can be improved, and then leave time perhaps for some questions.

To ensure that young parents will even think about the future of their out-of-wedlock child, the most important element is to make certain that information about paternity determination, the rights and obligations, and how these are protected, particularly for minor parents, is widespread throughout the social service system, the school system, the hospitals, maternity and child and health settings. Such information is now almost absent from many of these programs. In many, many jurisdictions, there isn't even a simple piece of paper that in any way describes what the rights and obligations are.

Furthermore, when one moves to the system itself, we see that the incentives for child support enforcement to pay attention to this issue are certainly very discouraging. Perhaps you know that the ratio of collections to costs determines the formulas for reimbursement to States.

There is now a sharp disincentive to spend time and effort with young parents, because the short-term reward for collections may indeed be very discouraging.

I would recommend that the costs of establishing paternity, and there are costs attached to it, blood testing, the availability of an attorney for a man who declares he is not the father and so on, I would suggest that these be removed from the formula, and that, in fact, there be now a performance incentive, so much being reallocated to a State that actually in a vigorous way pursues paternity determinations.

I would further say that our recommendations flow from the fact that in the long-term interest of the child, which is 18 years, economic benefits can flow to that child in very interesting ways. Perhaps what we need now is really some better research on how to prioritize cases for IV–D.

For children born to young teenage parents, a persistent tracking of where they are, both in school and employment is absolutely necessary.

Second, I would say that we have to find a counseling environment for these young parents so they make their decisions in realistic ways and understand their obligations. But I would say in an extensive and systematic way we ought to make it quite clear to parents, grandparents and the community at large, that we are committed to paternity establishment in a framework of equality. Young teenage mothers will certainly bear the consequences of out-of-wedlock births, and these should be shared equally by the fathers of their out-of-wedlock children.

I bring this to the attention of this committee because I'm always perplexed really by the welfare reform plans emerging from the States, which I do read from time to time. Almost entirely they concentrate on assisting the mother: to make her self-sufficient. My appeal is in the question: Where are the fathers? I think we must bring the fathers into the system in welfare reform plans. These provide the opportunity to reach out to a large and growing generation of young men who, in fact, from very scattered studies that we've done, are willing to produce voluntarily some income for their children if they're connected to resources. That, I think, ought to be one of the focal points for welfare reform.

Thank you.

[The statement and attachments of Ms. Wattenberg follow:]

## STATEMENT OF ESTHER WATTENBERG, PROFESSOR, SCHOOL OF SOCIAL WORK, HUBERT H. HUMPHREY INSTITUTE, UNIVERSITY OF MINNESOTA

### "Understanding the Importance of Paternity Establishment for Out-of-Wedlock Children"*

Fundamental concepts are embedded in issues dealing with paternity determination for out-of-wedlock children. Public policy should be derived from the assumption that there is an obligation of support and responsibility for children that should be assumed in a framework of equality between the mother and the father.

Acknowledging the fact that the interests of the State, the unmarried parents, and the non-marital child may be in contention, policy should assume a child-centered focus.

The understanding is derived from the long period of the child's dependence, 18 years, and the potential for adding a dimension of stability and resources that are indispensable to the child's growth and development through paternity action. Ensuring equal protection for the out-of-wedlock child, regardless of the marital status of the parents, is a key concept.

In short, ensuring that all children have two legally responsible parents who are accountable for their welfare is sound public policy; rights that are inherent to children born of married persons should be accorded to out-of-wedlock children, and the key is paternity establishment; equal responsibility and equal obligations of young parents are affirmed in paternity establishment, thus bringing visibility to unmarried fathers, and their obligations; paternity adjudication safeguards wide-ranging interests of out-of-wedlock children. In the words of Harry Krause, a legal authority on family law, "the child is owed a chance."

In this connection, long term advantages that accrue from paternity are unquestionably life-enhancing. These have been confirmed over the last two decades by the U.S. Supreme Court. A series of decisions based on the constitutional equal protection clause have established the principle of legal equity between marital and nonmarital children. State statutes that discriminate against children born out-of-wedlock have been struck down as unconstitutional.[1]

The benefits of establishing paternity are noteworthy:

- Social Security -- The child may be eligible for certain benefits through the social security system. In cases where the father has been employed and has contributed to social security, if the father becomes disabled or dies, the child is entitled to receive a benefit until the age of eighteen.
- Armed Services -- The father may draw an extra allowance to provide a household for his dependents. For enlisted personnel, this allowance may range from $220 to $342 per month. The child is also eligible for commissary and post exchange privileges. If the father incurs a service-connected disability, the child is eligible for an educational benefit, which can be as much as $342 per month for a full-time student.
- Health Care -- If a father's employer-provided health care plan covers a marital child, then plan benefits also must be available to the nonmarital child.

*Observations presented in this testimony have been derived, in part, from an exploratory study, "Issues in Paternity Adjudication for Teen Parents," supported by Ford/McKnight Foundations and the Center for Urban and Regional Affairs, University of Minnesota.

- Worker's Compensation -- Nonmarital children are eligible for dependent's benefits under worker's compensation.

- Child Support -- Establishment and enforcement of a child-support court order depends on paternity adjudication.

- Naming -- The child may use the father's name.

When paternity is established, other benefits follow as well. A child gains access to important genetic information and medical history when the identity of the father is proven. In addition, increasing evidence from adoption studies indicates that intangible benefits may be derived from one's knowledge of biological heritage. Paternity identification may be a factor in strengthening emotional growth and development in the child.

Failure to establish paternity clearly preempts children from a host of economic and social benefits. In this light, establishing paternity appears to be a key factor in serving the best interest of the child.

## Dimensions of the Problem

Unmarried mothers and their children are the fastest growing family formation in the United States. Out-of-wedlock births to child-bearing women are rising at unprecedented rates at all age levels.

As of June, 1986, 20.2% of all births in the white population were out-of-wedlock, compared to 74.5% in the black population. Of all teen births, 87% of those to black mothers are out-of-wedlock, compared to 38% of those to white mothers.

Out of wedlock births are now at the highest fraction of all births ever recorded in the history of the nation, representing a five-fold increase since 1970. While there has been a concentration of attention on the rates of out-of-wedlock births to teenagers, the disproportionate increase among young, maturing women has escaped notice. In 1984 and in succeeding years, birthrates for teenagers have actually declined somewhat, but rates for unmarried women over thirty rose sharply, from 17.1 to 22.2 births per 1,000. Still, the highest risk for a nonmarital child occurs for women aged twenty to twenty-four. The risk for women aged eighteen to nineteen is nearly as high.[2]

Differences among racial groups are also noteworthy. While rates of out-of-wedldock births to black women are diminishing slightly -- except for females aged eighteen to nineteen and twenty to twenty-four -- the rates for white women are increasing at every level. Nevertheless, a disproportionate number of black children are living with an unmarried parent: 44% as compared to 14% of white children.

The number of children who have never lived in a traditional nuclear family is increasing rapidly. Between 1980 and 1984 the number of children living with unmarried mothers doubled. In 1984, 3,360,000 children were recorded as living with unmarried mothers; the actual figure is undoubtedly higher.

In short, while public attention has been focused on the unwed teen parent, the prevalence of non-marital children among older unmarried parents should not go unnoticed.

The dimensions of the out-of-wedlock phenomenon is disclosed not only in size but in consequences, as well. Studies have focused on the serious social and economic consequences of precocious parenthood -- the teenage parent. In the complicated chain of association between early childbearing and long-term reliance on public assistance, an unarguable reality is revealed in recent census data: poverty rates are strikingly high for young, single-parent families with out-of-wedlock children. Sixty-five percent of white families where the mother is 15-24 years of age, and over 80% of black female-headed families where the mother is in the age group of 15-24 live in poverty.[3]

An unmarried, young mother is in a family formation that is most likely compelled to rely on AFDC for meeting basic human needs of food and shelter. Three-quarters of unmarried teens seek public assistance at some time within four years following the birth of their child. Black teens are twice as likely as white teens to receive AFDC in any given year.[4] The long-term welfare recipiency of unmarried mothers is reflected in the fact that 62% of all AFDC mothers under the age of 30 started their persistent wefare history as teen mothers.[5]

Further, the composition of AFDC caseloads has changed dramatically within recent years: the marital status of the caretaker has changed from widow to separated and divorced and now, predominantly, "never-married." Note that of all AFDC families in the U.S.A., 52.6% are now headed by "never-married" recipients.

Studies come to a uniform conclusion: for a child, being born out-of-wedlock to a poor mother increases the likelihood of enduring a long spell of poverty over a lifetime.

In short, the families formed by single, young, unmarried women are the most problematic of all families because of the risks that are imposed on their children and costs to the public sector.

## The Incidence of Paternity Adjudication

While a string of legal decisions have protected the rights of non-marital children, once paternity has been established the benefits are poorly understood by young parents, their families, and the community at large. Indeed, pivotal questions can be raised: Do policy and practice contribute to the disregard that is associated with paternity decisions? Are professional personnel in human services agencies, schools, and medical facilities fully aware of the gravity and importance of establishing paternity?

One raises these questions because nationally it is estimated that only one of three out-of-wedlock births is followed by an action of paternity acknowledgment or adjudication. More than a decade after enactment of child enforcement legislation, auditors still report substantial compliance deficiences in the concluding paternity actions.[6] Moreover, despite a strong role articulated for state agencies in paternity issues in the 1984 federal amendments to the original child enforcement legislation, the presence of a national model, the Uniform Parentage Act, and a series of Supreme Court decisions affirming the Equal Protection Clause protecting the rights of out-of-wedlock children, only a small increase in conclusive paternity actions is recorded.

The rate of established paternities varies widely from state to state. (See Table I in the Appendix.) In twenty-two states, the rate has actually dropped despite the continuing rise in out-of-wedlock births. The rate of paternity adjudication has not changed substantially over the decade.

## What Do We Know About the Fathers of Out-of-Wedlock Children?

Presently, only scattered research findings on the partners of young, unmarries mothers exist. Consequently, there is no widely held concensus on how to respond to the growing generation of children who lack a legally determined father, and the scarcity of data often leads to unfounded assertions.

Illustratively, basic knowledge on the employment pattens, school experiences, family attachments, and earnings of the father of out-of-wedlock children is sketchy. As a result, mixed assumptions prevail on the usefulness or value of pursuing paternity determination. Skepticism dominates the general debate about the role of child support enforcement as a strategy to improve the economic status of chilren in low-income families. The debate is even sharper when it centers on young, unmarried fathers that are, presumably, unemployed, with incomplete educations, and unable or unwilling to acknowledge responsibility toward their child.

Yet, recent findings challenge this assertion and suggest that a significant portion of young fathers are and want to be involved in the lives of their children, and may be more open to the value of pursuing paternity determination than is commonly supported. (See Lerman, R.I., Who Are the Young Absent Fathers?, Draft Paper, Heller Graduate School, Brandeis University, November 1985.)

Using data from the National Longitudinal Survey of Labor Force Behavior (NLS) between 1979 and 1973, Lerman compiled information information on the characteristics of teen fathers in the United States. In 1979, 320,000 of 18.8 million 14-21 year-old-males were absent fathers, comprising over 40% of young fathers overall. By 1983, the percentage of young fathers who were absent dropped to 33%. Comparing absent fathers to non-fathers, the former were found to be economically poorer, with lower academic performance, and more school behavior problems. Similar trends were evident comparing young fathers (whether absent or not) to young nonOfathers. These contrasts were more marked among white and blacks. Among 18-26 year-old-fathers, 32% of the never-married group reported making child support payments.

The Minneapolis component of the Minnesota Adolescent Health Survey also discloses some information on paternal characteristics. For those births to mothers under the age of 20 in Hennepin County for which the age of the father was known, one-quarter involved an adolescent father (under age 20), while three-quarters involved a male, age 20 and over, paralleling findings of Hendricks from his sample of unmarried adolescent mothers and fathers. (Source: Hendricks, L.W. "Unwed Adolescent Fathers: Problems They Face and Their Source of Social Support," Adolescence, 15: 861-869, 1982.)

Data on child support payments is partial and inconclusive. The Lerman data (derived from the NLS sample) is based on court-ordered payments but not payments actually received. Only one-third of never-married young fathers were ordered to contribute child support. Scattered studies report, however, that some financial aid and in-kind assistance, food, diapers, child care, are contributed by a high percentage of fathers, black and white. There is some indication that this assistance dwindles after the first year of the baby's life.

Outreach to fathers has been fraught with difficulties and still remains a challenge. Although teen parents have been the subject of many studies, attitudes toward paternity have not been widely reported. This may be because many teen parents are hesitant to discuss paternity, since the process of its establishment is shrouded in uncertainty and inaccurate information.

Street knowledge tends to sway many decisions, even though such knowledge may be highly inaccurate. In many communities, rumors persist that paternity adjudication can led to criminal prosecution. Many of the teen mothers who responded in the survey said that they intentionally avoided paternity adjudication. They cited the long term interests of their male partners, hoping that by not pursuing paternity identification, they would protect their partners from financial consequences, harassment, medical expenses, prison, and even statutory rape charges.

Caseworkers reported, however, that this attitude often changes when the child reaches two or three years of age. At that time the mother often receives news of the father's increased financial capability or of his marriage to another woman, just as her own financial hardship is increasing. This combination of factors spurs the mother to initiate paternity proceedings.

In a sub-study of the exploratory project mentioned above, researchers interviewed fifty black male teenage fathers, age 16-21, in the St. Paul-Minneapolis area during 1984. Describing the young men's perception of paternity procedures, the author stated, "The court system is intimidating, and in their perspective, treacherous. Generally, they are apprehensive about going to court under any circumstances." These interviews also revealed confusion about the legal obligations of the fathers and their legal rights vis-a-vis paternity and support.

Young, unmarried parents exist within a particular pattern of influences, shaped by family, peers, and the community. Further, factors of age, socio-economic status, family relationships may contribute to the paternity decision. Moreover, there may be steps in the decision-making process in which certain pieces of information about paternity may play a part.

It is here that the few existing studies disclose that inaccurate information, distortions, and rumors may play a significant role in preventing decisions on paternity actions.

## Procedural Problems

Paternity cases involve a web of varied and often conflicting interests--the mother, the father, the grandparents, the social services professionals, the child support enforcement system, and the courts -- all of which must be integrated while still focusing on the primary interests of the child.

Barriers, both formal and attitudinal, prevent paternity actions. Prominent among the barriers are the lack of an incentive payment to state and local jurisdictions for pursuing paternity adjudication for the child of young, unmarried parents.

Reimbursement to the states in based on a formula partially determined by the ratio of collection to costs. This encourages an emphasis on cases that will produce high payments with the least cost. At local levels this is a formidable disincentive to deal with teen parents.

Findings from our exploratory study demonstrate that paternity determinations are not a high priority for state agencies. The following quotes from survey respondants in Minnesota clearly express the problem.

> "There is little or no financial incentive in teenage paternity adjudications; and when caseloads become heavy, there is an acknowledgment that little attention can be paid to paternity of teenage parents because [the chance of] the recovery of child support is dim."

> "Often cases are prioritized [after initial interview] not by the child's right to have paternity established, but by [the] potential payer's ability to pay, including ease of collection."

## Procedures for Establishing Paternity Vary Widely from State to State and Among Local Jurisdictions

One of the eligibility requirements for AFDC is that applicants must agree to cooperate in designating the father of the child. This is meant to ease child support implementation and enforcement.[7] In cases where the mother is not married, she must attempt to establish paternity. However, the law does provide for "good cause" exceptions in cases where there is reason to believe that the identification of the absent parent could cause emotional or physical harmn to the child.[8] A study of eighty-seven counties showed a wide variation in the practices governing this AFDC requirement.[9]

Further, at the time of the study in 1983 and 1984, the specific benefits of paternity adjudication were discussed in less than 5% of the cases; the benefits to the child were not spelled out in 95% of the cases. Written materials on the benefits of establishing paternity were available in only one isolated situation. (Since the release of the findings of this study, scattered counties and programs have produced pamphlets on benefits to the child.)

The most striking finding of the study was the routinely haphazard approach used in dealing with the reported father. Methods of introducing these young men to their role in paternity proceedings varied from an informal telephone call to a formal letter in a summons and complaint document. Many jurisdictions employ a sheriff or sheriff's agent to serve these papers.

The study found that rights and responsibilities routinely went unexplained, either verbally or in writing. Even basic rights, such as the right to an attorney, the right to a guardian ad litem (for minors), and the availability of blood tests, were not always discussed.

There are inherent complexities in current arrangements. Even young, unmarried parents voluntarily seeking to establish paternity for their child are confronted with a maze of rules and regulations governing AFDC, child support enforcement procedures not always understood, and the intimidating environment of judicial procedures and delays. In Hennepin County, widely regarded as having an efficient system, the delays caused by duplicating records, shuffling back and forth and waiting for a court appearance add up to 18 months from the time of initiating the adjudication. The drop-out rate and the chilling effect is predictable. Indeed, the message in the "street knowledge" lore which is conveyed to young, unmarried mothers and fathers is a warning: stay away from bureaucratic entanglements. Decision-making by unmarried parents in establishing paternity for their child is often haphazard and determined by improvised choices based on short-term interests. The system (AFDC, the courts, the child support enforcement offices) is perceived by unmarried, young parents as "user unfriendly."

A paternity action delayed is justice denied to the non-marital child. The best time to establish paternity is as soon after birth as possible, when memories are fresh and young parents are still living in the same community. When young parents live in different states, paternity proceedings are more complex and time consuming. An early determination maximizes the opportunity for voluntary paternity proceedings.

Strikingly absent from the array of services and programs that might interact with young parents (health care clinics, the hospital, social agencies, the school system) is attention to paternity issues. These issues are rarely addressed in a counselling environment with the child in mind.

The judicial system also presents a major problem. Judicial philosophy is one of intense concern with protecting the rights of the father. The challenge is to retain that philosophy without the excessive overburden on the courts which has caused striking delays in the paternity process.

Some assert that the state courts have become unnecessarily complex in their procedures, frustrating timely paternity actions. (For a discussion of these procedures, see Prohibited Application of the Rules of Civil Procedure in Paternity Adjudication under the Uniform Parentage Act: Default and summary judgment--Policies, Problems and Practice, John J. Castaneda, forthcoming in Law and Inequality Journal, University of Minnesota.)

The adversarial environment of establishing paternity is frequently mentioned by unmarried parents as a specific barrier. To create a counseling environment in an administratived setting is imperative.

In summary, these are the chief barriers to establishing paternity:

1. A lack of concerted attention to the issues in the health, school, and social service agencies that interact with young mothers and their partners.

2. Structural complexities in the overburdened system of AFDC and IV-D, and the courts, facing a rising volume of cases, causing delay in taking the necessary steps in paternity establishment. Internal complexities among the three units typically involved with young, unmarried parents--AFDC, IV-D, and the County Attorney's Office--create a procedural maze which is confusing and misunderstood by the social service systems which counsel young, unmarried parents, the parents themselves, and the community at large.

3. Disincentives in the current formulae for reimbursement to IV-D agencies accounting to a large extent for the low priority assigned to paternity cases. The cost effective argument, when there is a low potential for dollar recovery because of the economic status of young fathers, is persuasive to an agency whose funding depends on the dollars captured in child support actions.

4. An inadequately staffed service component within the units dealing with unmarried parents: lack of staff resources to work with young parents in varying circumstances; lack of staff time to work with uncooperative mothers; lack of skill in effecting services to unmarried fathers.

5. A judicial system that causes long delays and postponements.

An examination of paternity adjudication and the ways in which it is perceived and responded to leads to the firm conclusion that, at present, the routes to providing legal protection for the minor child are haphazard and full of improvised choices by the young, unmarried parents. Further, decisions are enmeshed in a complex, interactive, procedural maze within the several systems that affect paternity. This is compounded by the community's perception; which is to some extent factually incorrect and rumor laden.

How Can Procedures Be Improved?

1. The paternity establishment system should be "user-friendly." All agency personnel with whom the client-mother must interact in the process of AFDC application and/or establishing paternity must be available to the client in the same place and at the same time. These personnel include an AFDC intake worker, an intake paternity counselor, an attorney, and a social worker-advocate. The objective is to involve the parents in the decision-making at the outset, maximize cooperation, and increase participation in the process which ultimately will adjudicate the paternity of the child.

2. A standard method of outreach to the putative father should be developed in order to:

   a. bring the putative father into the system in a cooperative posture.
   b. connect the putative father with necessary services and resources.
   c. get the case on the proper track as early as possible.

3. A standard method should be developed and utilized for advising the putative father of his legal rights at the time of the initial personal interview, documenting that notice, and obtaining his informed waiver in appropriate circumstances.

4. The system should separate the issue of paternity from the issues of child support, custody, and visitation. In other words, until there is agreement on paternity, discussion and/or negotiation on the other issues must be deferred. One possible procedure would be to have the parents execute a Declaration of Parentage as soon as they both agree on paternity.

5. It is proposed that immediate blood testing be made available on a voluntary basis any time either the mother or putative father express any doubt as to the biological father. The objective is to eliminate that doubt as quickly as possible with scientific evidence.

6. A "Declaration of Parentage" or an "Affidavit of Paternity" should be available as a procedure for legitimation. This form, signed in the presence of a notary, should be available at the hospital for those cases where paternity is acknowledged. This should create a presumption of paternity as in the case of a child born to married parents. Minnesota's law which states that after three years this is conclusive evidence of paternity is a useful model. The objective is to minimize the burden on the judicial system, and avoid forcing the parties into an adversarial posture.

   The courts should be involved only when necessary:

   a. to ratify the agreement of the parents on paternity, and the ancillary issues.
   b. to adjudicate issues on which the parents are unable to reach agreement.
   c. to obtain the cooperation of either party in the process.

   An expanded use of hearing examiners should be explored. (See New York model.)

7. The costs of establishing paternity must be excluded from the federal formula of reimbursement. Incentives should be developed that reward performance criteria rather than collection receipts. Special performance rewards should be established for programs and policies that address the unique concerns of teen parents.

Reaching Young, Unmarried Parents

The diversity of fathers' situations should be recognized and variations in responses devised.

1. Minor fathers under 16 require responses that are sensitive to their minor status. Materials (fact sheets, brochures, discussion gujides) should be developed based on the most common questions raised by teen parents. The presence of male staff members, familiar with the ethnic and racial background of teen fathers, should be available for counselling.

   Particular attention will be paid to procedures in the first stage of informal acknowledgment in which rights and responsibilities on blood testing and counsel representation are introduced. Written materials on procedures can be discussed to demystify the process. Interviews with minors should not take place without a guardian ad litem present.

2. Fathers with low potential for recovery should be assessed. These might reflect situations as follows: fathers who are incarcerated; deeply involved in alcohol and drug abuse; chronically unemployed because of physical or psychological deficiencies.

   In these situations, case-by-case assessment of responsibilities, rights, and the best interest of the child in concluding paternity actions will be made. The results of these assessments may yield guidance, in a general sense, for priorities in a workload and a better appreciation of "good cause exceptions."

3. In situations where fathers are students, paternity actions should not be delayed; a modest and achievable child support obligation should be set; and a re-evaluation should be followed in a systematic fashion.

4. There should be outreach to young, unmarried mothers. Findings from the Ford/McKnight study disclosed that, generally, decision-making by a young mother on "legitimizing" the out-of-wedlock child is determined by an interactive set of signals: the state of the relationship between her and the father; her age; the context in which she received information; the influence of peers, family, agencies, and programs; and her perception of treatment by AFDC, IV-D personnel, and the judicial system. The accidental nature of these encounters and the fragments of information received and retained is often unreliable. Conclusively, information on what benefits would accrue to the child through paternity adjudication and the child support enforcement is not routinely given to young, unmarried parents in a systematic way which is clearly understood.

Specifically:

- community programs in the pregnancy stage and hospitals, at birth, should routinely assist the mother in understanding the importance of paternity establishment.
- procedures should be clearly explained and should assist the unmarried mother to interact with the system in a postive way.
- family counseling and/or mediation services to the parents and child should be provided.
- procedures should provide resources to the mother and father to meet their needs for education, jobs training, and employment.

Recommendations

Research initiatives are indispensable. The following questions require more substantially documented answers:

- What is the capacity and willingness of young unmarried fathers to contribute to child support?

- To what extent do fathers contribute to child support: financial and non financial?
- Are living arrangements of young, unmarried mothers an important variable?
- What are the demographic, experiential, and attitudinal variables that differentiate paternity avowers from disavowers?
- Specifically, are there differences in school attainment, work histories, welfare reliance, family of origin patterns?
- Are there racial/ethnic differences that predict pattenrs?
- Are there cases where the father cannot be located? If so, what are the circumstances of these cases?
- What are the barriers to access for services in establishing paternity as perceived by young, unmarried parents.

Among research questions that are central for policy purposes are the following:

- In making an analysis, the competing interests must be identified and weighed: the autonomy or "self-determination" interests of the parents, the interest of the state, and the often silent interest of the child. Will research data suggest the extent to which the long-term interests of the child are realistically perceived?
- Are there some family formations that should not encourage the legal tie of a father to an out-of-wedlock child?
- Will research data reveal disincentives in the system that discourage paternity and its linkage to child support, such as the lack of significant augmentation to the AFDC grant; a perceived advantage to go "off the books" in an informal support system; the perception that training and work programs are ineffective?
- Can research findings suggest support for the notion that paternity should be disengaged, procedurally, from the child support enforcement system? In what way could this be accomplished?

Finally, states should continue their work in reviewing and monitoring statutes and judicial and administrative procedures that affect out-of-wedlock children. The Uniform Parentage Act, which has been adopted in a handful of states, provides guidance.

Particular attention should be paid to the role fo the court system. These issues require attention:

- the philosophy of the court in protecting the rights of minor fathers.
- how priorities are set for hearings.
- making available counsel and guardian ad litems for minor fathers.
- reforming statutory rape laws.
- creating a system of expanded use of hearing examiners.

Testimony presented by:

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## FOOTNOTES

1. Among the decisions note the following: Levy v. Louisiana, 391 U.S. 681 (1968), established the right of out-of-wedlock children to recover compensation for the wrongful death of their mothers; Weber v. Aetna Casualty and Surety Co., 406 U.S. 164 (1972), established their right to collect benefits under the state's workers' compensation program; the right to support was established by Gomez v. Perez, 409 U.S. 535 (1973); and the right to public assistance was established in New Jersey, Welfare Rights v. Cahill, 411 U.S. 619 (1973).

2. National Center for Health Statistics, Monthly Vital Statistics Report, "Advance Report of Final Natality Statistics, 1984," Vol. 35, No. 4, July 18, 1986, pp. 7-8 and tables 18 and 19; and U.S. Department of Commerce, Bureau of the Census, Current Population Reports, "Marital Status and Living Arrangements: March 1984," Series P-20, No. 399, Table D; "Living Arrangements of Children Under 18 Years: 1984, 1980, and 1970," (Washington, D.C.: U.S. Government Printing Office), and U.S. Department of Commerce, Bureau of the Census, Current Population Reports, "The Fertility of American Women: June 1984," Series P-20, No. 401, June 1985.

3. Current Population Reports, Table 18, "Money, Income and Poverty, Series P-60, No. 149, March 1985.

4. Child Trends Inc., Kristin A. Moore, Ph.D., Ed., Washington, D.C., October, 1987.

5. Wilbur Weder, Family Assistance Office, Washington, D.C., personal communication, quoting from the unpublished Quality Control Review Data Report, fiscal year, 1986.

6. Child Support Report, Vol. IX, No. 1, January, 1987.

7. In 1975, P.L. 93-647 established the Child Support Enforcement Program as a new Part D of Title IV of the Social Security Act. The Child Support Enforcement Amendments of 1984 (P.L. 98-378) require states to strengthen enforcement procedures.

8. See HHS, "AFDC: Good Cause Claims for Refusing to Cooperate in Establishing Paternity or Securing Child Support," Social Security Bulletin, 46:5 (May 1983, pp. 9-10).

9. This finding is confirmed in nationwide reports that note that paternity proceedings are not standardized from state to state or even within states. In some jurisdictions, unmarried parents may "legitimize" their child, voluntarily, through signing a document before a notary public. In orhter locales, the action requires a formal court proceeding. In this regard, New York City has recently passed new legislation that permits the expanded use of hearing examiners who may approve paternity petitions and orders of child support. Neither parent has to appear in court. This law also provides for a written acknowledgment of paternity, printed bilingually in Spanish and English, that also outlines the putative father's rights and responsibilities. For a full discussion of New York's legislation, see Child Support Enforcement, Vol. VII, No. 10, December 1985, "New Law Expedites Enforcement in New York," HHS, Office of Child Support Enforcement, Reference Center, 6110 Executive Blvd., Rockville, Maryland 20852.

### TABLE II

### INDEX OF OUT-OF-WEDLOCK BIRTHS ADJUDICATED BY STATE IN 1984*

| | Number of O/W Births | Total Adjudicated | Percent of O/W Births Adjudicated |
|---|---|---|---|
| United States | $ 770,355 | 219,218 | 28 |
| Alabama | 14,532 | 4,921 | 33 |
| Alaska | 2,187 | 90 | 4 |
| Arizona | 12,774 | 500 | 3 |
| Arkansas | 7,603 | 1,911 | 25 |
| California | 106,739 | 24,378 | 22 |
| Colorado | 8,300 | 1,187 | 14 |
| Connecticut | 8,934 | 4,363 | 48 |
| Delaware | 2,297 | 929 | 40 |
| District of Columbia | 5,499 | 471 | 8 |
| Florida | 38,966 | 15,741 | 40 |
| Georgia | 23,076 | 6,518 | 28 |
| Hawaii | 3,576 | 888 | 24 |
| Idaho | 1,679 | 205 | 12 |
| Illinois | 44,834 | 4,711 | 10 |
| Indiana | 14,961 | 6,859 | 45 |
| Iowa | 5,318 | 1,072 | 20 |
| Kansas | 5,514 | 404 | 7 |
| Kentucky | 9,410 | 2,774 | 29 |
| Louisiana | 21,654 | 3,180 | 14 |
| Maine | 2,729 | 554 | 20 |
| Maryland | 18,613 | 8,290 | 44 |
| Massachusetts | 13,833 | 3,841 | 27 |
| Michigan | 24,055 | 13,875 | 57 |
| Minnesota | 9,019 | 3,090 | 34 |
| Mississippi | 14,170 | 2,139 | 15 |
| Missouri | 15,285 | 17,046 | 111** |
| Montana | 2,139 | 33 | 1 |
| Nebraska | 3,655 | 449 | 12 |
| Nevada | 2,089 | 356 | 17 |
| New Hampshire | 1,796 | 52 | 2 |
| New Jersey | 22,403 | 11,739 | 52 |
| New Mexico | 6,759 | 970 | 14 |
| New York | 67,567 | 17,403 | 25 |
| North Carolina | 18,205 | 7,185 | 39 |
| North Dakota | 1,274 | 488 | 38 |
| Ohio | 32,286 | 9,804 | 30 |
| Oklahoma | 8,793 | 562 | 6 |
| Oregon | 6,882 | 1,947 | 28 |
| Pennsylvania | 32,877 | 13,404 | 40 |
| Rhode Island | 2,244 | 549 | 24 |
| South Carolina | 12,967 | 3,879 | 29 |

| | Number of O/W Births | Total Adjudicated | Percent of O/W Births Adjudicated |
|---|---|---|---|
| South Dakota | 2,036 | 227 | 11 |
| Tennessee | 14,885 | 6,217 | 41 |
| Texas | 45,698 | 769 | 1 |
| Utah | 2,954 | 1,669 | 56 |
| Vermont | 1,276 | 379 | 29 |
| Virginia | 17,195 | 1,990 | 11 |
| Washington | 11,619 | 1,905 | 16 |
| West Virginia | 3,989 | 378 | 9 |
| Wisconsin | 12,121 | 6,895 | 56 |
| Wyoming | 1,089 | 32 | 2 |

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* Please note that no comprehensive nationwide figures on paternity adjudications exist. The data reported here is derived from state reports to the Office of Child Support Enforcement and reflect paternity adjudications of those applying for AFDC and non-AFDC persons seeking paternity and child support assistance from local offices throughout the country. Since a high proportion of unmarried women with dependent children use the services of IV-D, the data can be considered significant. Paternity adjudication numbers in any one year must be treated with caution since they may contain paternity actions of children born in previous years, but the index gives an approximation that is strongly suggestive of the gap between out-of-wedlock births and paternity adjudications.

Information on out-of-wedlock births is from the National Center for Health Statistics, Monthly Vital Statistics Report, "Advance Report on Final Natality Statistics 1984," July 18, 1986, Vol. 35, No. 4. Information on paternity adjudications is from Office of Child Support Enforcement, U.S. Department of Health and Human Services, Rockville, MD., 10th Annual Report, Vol. 2, for the period ending September 30, 1985.

** No explanation for this discrepancy.

Acting Chairman DOWNEY. Thank you, Professor Wattenberg. Mr. Davis.

## STATEMENT OF JAMES M. DAVIS, SECOND VICE PRESIDENT, DOMESTIC RELATIONS ASSOCIATION OF PENNSYLVANIA, AND DIRECTOR, DOMESTIC RELATIONS SECTION OF THE LUZERNE COUNTY COURT OF COMMON PLEAS

Mr. DAVIS. Thank you.

I'm employed as the director of domestic relations in Luzerne County, PA. It's a third-class county with a caseload of approximately 10,000 domestic and paternity cases.

In addition, I'm presently the second vice president of our State organization, the Domestic Relations Association of Pennsylvania.

I'm here today to ask your support for Congressman Kanjorski's bill, H.R. 2955, dealing with allowing arrears only cases, non-AFDC cases, to be included in the intercept program.

In a question that was asked of Congressman Kanjorski, in the earlier panel, there was the following statement, "these cases should be submitted as early as possible." We have been doing this, but the problem is the Non-AFDC Intercept program has only been available for 2 years. This is the third year non-AFDC cases can be submitted for TROP. The law is very specific that once a child reaches the age of 18, their portion of the arrears can no longer be included, for example, the order of support in a case provides support for two children, and the order isn't allocated. It is a $100 per week order, that does not specify $50 per week per child. When one child becomes emancipated, we are technically banned from submitting the case for TROP at all because you cannot apportion an order among children if it is not done at the time the order was entered without a new hearing.

There's a letter attached to my testimony from one of our clients. I would like to give you a little background on this case. It involves a custodial parent who had a support order entered in Luzerne County of $125 per week for her two children, however her husband did not comply. Our office was forced to list him for a court hearing on contempt charges, he left the State of Pennsylvania, and went to Florida. It took substantial time to locate the defendant and then verify his place of residence employment. We attempted to register the support order in Florida to both enforce the order of support and preserve the arrearage. What should have taken 2 months took closer to 2 years for the order to be registered. During this time, we were able to submit this case for the non-AFDC IRS intercept only 1 year, before the oldest child became 18 years old. The TROP was successful and a collection of between $300 and $400 was received, which isn't a great deal of money, but it came around Christmas in 1986 and certainly was a help to this woman and her daughters. The older daughter is now attending college and is forced to borrow money, to finance her education through student loans. We are banned from submitting her portion of the arrearage for collection, through the tax refund offset program. There are, I'm sure thousands if not millions of cases across the country that are trapped by this same situation.

In the State of Pennsylvania, and in Luzerne County in particular, the non-AFDC program has not been anywhere near as successful as the AFDC program. I think that the reasons are two of the five criteria for submission, mainly the emancipated child criteria, the fact that we cannot submit these non-AFDC arrears cases, and also arrearage amount criteria, $150 arrearage on an AFDC case, while $500 or a non-AFDC case.

As I stated earlier, I would ask that Congressman Kanjorski's bill, H.R. 2955, be supported and, if possible, that consideration be given to standardizing the amount of arrears needed for submission.

In Luzerne County, on the AFDC side, we've collected over a million dollars in the last 5 years through the IRS intercept program. The average collection is $421 per case, and we have collected on 47 percent of those cases submitted. Statewide, in Pennsylvania the average is $521 per intercepted case, and a 37 percent collection rate.

On the non-AFDC side, the percentage rate of collection is higher, while the average is basically the same, but we've only collected $61,000 in Luzerne County. Now, the non-AFDC program has only been available for 2 years as opposed to 5 years for AFDC, but we're severely limited in the amount of cases that we can submit.

One fact that isn't in my prepared testimony, that I was able to gather this from our computer yesterday, is if we could submit these arrears only non-AFDC cases for TROP, we could have submitted 172 cases to be intercepted this year for the tax year of 1987, with arrears totaling $470,000. However, we are banned from submitting them, along with other cases that would add to this arrearage total, because of the fact that an order is not allocated as to how much of the support order is specifically for the remaining minor child.

I would ask that you give serious consideration to extending the non-AFDC tax refund offset program, since it is only authorized for 5 years. I would also ask that the non-AFDC program would be expanded and arrears only cases be included.

Thank you.

[The statement of Mr. Davis follows:]

# TEXT OF TESTIMONY ON CHILD SUPPORT ENFORCEMENT & FEDERAL INCOME TAX REFUND OFFSET PROGRAM (T.R.O.P.) BY JAMES M. DAVIS, DIRECTOR, LUZERNE COUNTY, PENNSYLVANIA, COURT OF COMMON PLEAS, DOMESTIC RELATIONS SECTION BEFORE HOUSE WAYS & MEANS COMMITTEE, WASHINGTON, D. C., FEBRUARY 25, 1988.

I am very grateful to the members of the Ways and Means Committee for allowing me to make this presentation.

I have been employed in the field of Child Support Enforcement in Luzerne County, Pennsylvania for approximately 10 years. I am appearing before you today to request that the Federal Income Tax Refund Offset Program for Non-AFDC cases, as authorized for 5 years from tax year 1985 through tax year 1989, in the Child Support Amendments of 1984 (P.L. 98-378), be extended indefinitely, with changes being made to at least one of the submission requirements.

Luzerne County is located in the Northeastern section of Pennsylvania, with the County Seat in Wilkes-Barre. The most recent census report reveals a population of 343,079 in this third class light industrial/light agricultural county, encompassing 900 square miles. Our present unemployment rate is 7% and our County Assistance office reports 5,083 active public assistance cases, of which 2,760 are cases involving Aid to Families with Dependent Children.

The Luzerne County Domestic Relations Section of the Court of Common Pleas, of which I have been Director for the past 6 years, reported an active Child Support and/or Spousal Support caseload as of December 31, 1987 of 9,985 cases, which included 13,282 children. Of that figure,7,833 children were receiving Aid to Families with Dependent Children.

Our Domestic Relations Section performs its Child Support related duties from three locations, and employs 48 professional and clerical staff members. The main office is located at the Luzerne County Court House and 39 of our employees perform their duties at this location. These duties include the establishment and enforcement of support orders; the establishment of paternity; case tracking; case initiation and payment processing. We operate a branch office in Hazleton with a staff of 5, whose duties include the establishment and enforcement of support orders; case tracking and case initiation. Our other 4 staff members work in another county building, in Wilkes-Barre - 2 are employed as Masters and 2 as secretaries in an expedited procedure setting. During the summer of 1988 we will be moving into a new office building located across the street from our Court House that is being built specifically for Domestic Relations, by our County Commissioners, at the estimated cost of $4,000,000.00. The county is providing 3/4 of the cost, while 1/4 is being provided from our IV-D fund, that is available due to the funding provided by the Federal IV-D program. This new office space will allow us to hire additional staff to provide better case management, which will increase collections and improve services to our clients.

During the past 6 years that I have been Director of the Domestic Relations Section of Luzerne County, Pennsylvania, our total support collections have more than doubled. Collections for the calendar year 1981 amounted to $5,483,311.00, while $12,423,986.00 was collected in support payments in the calendar year 1987. During the past year, our Domestic Relations Office collected and disbursed 83% of the Court ordered support payments and arrearage payments due for that calendar year. This is a high rate of collection; however, non-compliance of Court Orders does occur and any new or improved enforcement technique is greatly appreciated.

Also during the past six years, existing support laws have been reviewed, amended and strengthened and new laws have been adopted to improve the National Child Support Program. The Omnibus Reconciliation Act of 1981 (P.L. 97-35) allowed the use of the Federal Income Tax Refund Offset Program (T.R.O.P.) to collect past due support owed on behalf of A.F.D.C. cases.

The main criteria for submitting cases under this program are:

1) The support obligation must have been established under a Court Order or an Order of an administrative process established under State law, and must have been assigned to the State.

2) The amount of past-due support must be at least $150.00. (The delinquency is for support and maintenance of a child, or a child and the parent with whom the child is living.)

3) The accuracy of the arrears must be verified. (The IV-D agency must have a copy of the Order and any modifications and a copy of the payment record.)

4) The accuracy of the absent parent's name and social security number must be verified.

5) In interstate and intrastate cases, the initiating state submits the case.

This program, the Federal Income Tax Refund Offset Program, has been a very valuable tool in increasing our collections on AFDC cases, as shown below:

LUZERNE COUNTY DOMESTIC RELATIONS SECTION

A.F.D.C. COLLECTIONS AS A RESULT OF T.R.O.P.

| Tax Processing Year | Number of Cases Submitted | Number of Cases with Collection | Amount of Collection |
|---|---|---|---|
| 1982 | 58 | 20 | $ 12,822 |
| 1983 | 266 | 159 | $ 65,983 |
| 1984 | 1260 | 517 | $ 231,466 |
| 1985 | 1229 | 539 | $ 231,797 |
| 1986 | 2043 | 1019 | $ 434,381 |
| 1987 | 2001 | 972 | $ 378,462 |
| TOTALS | 6857 | 3222 | $1,354,911 |

| | |
|---|---|
| AVERAGE COLLECTION PER SUCCESSFULLY INTERCEPTED CASE<br>(Total Collections ÷ No. of cases with Collection | $ 421.00 |
| Percentage of Successful Intercept<br>(No. of cases with Collection ÷ No. of cases submitted) | 47% |

## STATE OF PENNSYLVANIA-BUREAU OF CHILD SUPPORT ENFORCEMENT
## A.F.D.C. COLLECTIONS AS A RESULT OF T.R.O.P.

| Tax Processing Year | Number of Cases Submitted | Number of Cases with Collection | Amount of Collection |
|---|---|---|---|
| 1982 | 10,980 | 3,864 | $ 2,325,598 |
| 1983 | 29,100 | 11,465 | $ 6,149,657 |
| 1984 | 64,357 | 26,138 | $ 13,565,884 |
| 1985 | 70,698 | 18,815 | $ 13,736,901 |
| 1986 | 76,895 | 31,560 | $ 14,583,327 |
| 1987 | 82,435 | 33,466 | $ 14,896,681 |
| TOTALS | 334,465 | 125,308 | $ 65,258,048 |

| | |
|---|---|
| Average Collection Per Successfully Intercepted Case (Total Collections ÷ No. of cases with Collection) | $ 521.00 |
| Percentage of Successful Intercept (No. of cases with Collection ÷ No. of cases submitted) | 37% |

The Child Support Enforcement Amendments of 1984 (P.L. 98-378) provided many valuable tools for the establishment and enforcement of Child Support Orders including, but not limited to, automatic wage withholding of child support payments overdue in an amount equal to one month's obligation; expedited legal process; reporting delinquencies to Credit Bureaus; filing of liens; requiring security and bonds and also, extended the use of the Federal Income Tax Refund Offset Program to Non-AFDC and Title IV-E foster care cases. The expansion of this highly effective program for minor children not on welfare (A.F.D.C.) was effective for tax year 1985 (Internal Revenue Service processing year 1986) and is authorized for five years only, through processing year 1990. These amendments provided different criteria for submitting requirements for the Non-AFDC cases. The main criteria for submittal of a Non-AFDC case are:

1) The support obligation must have been established under a Court Order or an Order of an administrative process established under State law and the State must be enforcing the Order under Section 454 (6) of the Act.

2) The amount of past due support owed must be at least $500.00.

3) The support must be owed to or on behalf of a minor child.
(Spousal support arrears may not be submitted. Non-AFDC submissions on behalf of an individual who is no longer a minor, even if the arrearage accrued while the person was a minor child, may not be submitted for offset. The child(ren) for whom the arrears accrued must still be a minor child on December 31 of the year in which the case is submitted to the Office of Child Support Enforcement for offset.)

4) The accuracy of the arrears is verified (The IV-D agency has a copy of the Order and any modifications and a copy of the payment record, or an affidavit signed by the custodial parent attesting to the amount of support owed.)

5) The IV-D agency has checked its records to see if there are AFDC or foster care arrearages. (If there are, the case must be submitted as an AFDC case.)

6) The accuracy of the absent parent's name and social security number must be verified.

7) The custodial parent's current address must be known.

8) In interstate and intrastate cases, the initiating state submits the case.

The Non-AFDC Tax Refund Intercept Program as a collection mechanism has not been nearly as effective as its counterpart, the AFDC Program, as indicated below:

LUZERNE COUNTY DOMESTIC RELATIONS SECTION

NON-AFDC COLLECTIONS AS A RESULT OF T.R.O.P.

| Tax Year | Number of Cases Submitted | Number of Cases with Collection | Amount of Collection |
|---|---|---|---|
| 1986 | 122 | 52 | $ 25,906 |
| 1987 | 121 | 68 | $ 35,266 |
| TOTALS | 243 | 120 | $ 61,172 |

| | |
|---|---|
| Average Collection Per Successfully Intercepted Case (Total Collections ÷ No. of cases with Collection) | $ 510.00 |
| Percentage of Successful Intercept (No. of cases with Collection ÷ No. of cases submitted) | 49% |

STATE OF PENNSYLVANIA-BUREAU OF CHILD SUPPORT ENFORCEMENT

NON-AFDC COLLECTIONS AS A RESULT OF T.R.O.P.

| Tax Processing Year | Number of Cases Submitted | Number of Cases With Collection | Amount of Collection |
|---|---|---|---|
| 1986 | 7,885 | 3,568 | $ 2,378,627 |
| 1987 | 8,304 | 3,668 | $ 2,165,208 |
| TOTALS | 16,189 | 7,236 | $ 4,543,835 |

| | |
|---|---|
| Average Collection Per Successfully Intercepted Case (Total Collections ÷ No. of cases with Collection) | $628.00 |
| Percentage of Successful Intercept (No. of cases with Collection ÷ No. of cases submitted) | 45% |

A review of these charts for both the A.F.D.C. & Non-A.F.D.C. Offset programs indicate the percentage of success and the average per successfully intercepted case are higher in the Non-A.F.D.C. cases. The Non-AFDC cases are not being submitted for the T.R.O.P. in great quantities as the A.F.D.C. cases are. As an active professional in the field of Child Support Enforcement, I will admit delinquency rates are higher in the A.F.D.C. cases, but not sufficiently high as to explain or justify the fact that A.F.D.C. submissions exceed Non-A.F.D.C. submission by 90%.

I suggest the main reasons for the Non-A.F.D.C. Program's lack of success, in so much as so few cases are being submitted, lies in the fact that two of the criteria for submitting cases are drastically different between the A.F.D.C. and Non-A.F.D.C. programs. These two criteria, as outlined below, are severly limiting the amount of Non-AFDC cases that can be submitted:

1) Amount of past due support:
   AFDC - $150.00
   Non-AFDC - $500.00

2) Type of past due amount:

   AFDC - any arrears due for child support or a child and spouse with whom the child is residing. Cases in which the child is now emancipated may be submitted.

   Non-AFDC - support due must be owed to or on behalf of a minor child. Spousal support arrears may not be submitted and submissions on behalf of an individual who is no longer a minor, even if the arrearage accrued while the person was a minor child, may not be submitted.

The success of the A.F.D.C. program lies in these two submission criteria. We are able to submit hundreds of cases each year that are arrears only cases and have been very successful in collecting on these arrears only cases. This program is really the only program that successfully collects arrears for emancipated children, when the defendant cannot be located in your jurisdiction. I would estimate that since the inception of the Tax program, we have been able to collect all arrears due on over 300 arrears only AFDC cases in our county, alone. In the summer of 1987, when we were preparing our Offset submissions for the tax processing year, the Luzerne County Domestic Relations Office was contacted by well over a hundred custodial parents, who have children over the age of 18, who were never on Public Assistance (Aid to Families with Dependent Children) and who have large child support arrears due and owing to them. We were forced to inform these clients that their cases could not be submitted due to the emancipated child criteria. Their reaction to this information was disbelief and anger. I am specifically aware of 10 cases last year where custodial parents applied through our office for the Non-AFDC Offset Program and were advised that their cases could not be submitted, due to the emancipated child criteria, even though our records indicated they were owed past-due Court Ordered child Support of over $57,000.00. Another example of this injustice is a custodial parent who resides in Luzerne County, while the absent parent, who resides in West Virginia and is under a Child Support Order in that State, owing arrears totalling approximately $5,000.00, of which $2,700.00 is due to the custodial parent and $2,300.00 is due to the State of Pennsylvania as AFDC arrears. This case has been submitted under

AFDC Offset Program each year and the AFDC arrears are being paid off slowly, but the custodial parent has been advised during 1985 and 1986 that her Non-AFDC case could be submitted, but due to the large AFDC arrears, there was very little chance of her receiving any funds through the Offset program. In 1987, the custodial parent was advised that the portion of arrears due her could no longer be submitted since her daughter had reached the age of 18 in July of 1987.

The minimum amount of past-due support necessary for submission of a case for the Federal Income Tax Refund Offset Program should be the same for both A.F.D.C. & Non-A.F.D.C. submissions.

In conclusion, I urge this Committee to support the proposed amendments, which would allow us to submit Non-AFDC arrearage only cases for the Federal Income Tax Refund Offset Program. I would also ask this Committee to consider standardizing the minimum amount of past-due support needed to qualify for submission and make the amount $150.00 for both AFDC and Non-AFDC cases.

Attached for your review and consideration is a letter from one of our clients who has benefited from this program and strongly encourages its continuation and expansion, to include Non-AFDC arrears only cases.

Respectfully submitted,

James M Davis

James M. Davis, Director

James M. Davis, Director
Domestic Relations Section
Room 10, Court House
Wilkes-Barre, Penna. 18711

February 23, 1988

Dear Mr. Davis:

The IRS Intercept program is an excellent program which should not only be continued, but should be expanded.

This program was expanded several years ago to include those of us who are non-welfare custodial parents with child support arrearages due.

One year the Domestic Relations Office in Luzerne County was able to intercept an IRS refund for my children and apply it toward the arrearage in support payments. Needless to say, this was to my benefit, as I know it was to many, many others in similar circumstances. Now I have a daughter in college and she could certainly use any back support due her. It's at this crucial time that she is actually ineligible for the IRS Intercept program, because she has reached the age of 18. College is an unbelievable time of financial need. It is for this reason that I would like to see a good program expanded and become an even better program.

I feel that the IRS should include not only welfare and past due child support cases, but should include arrears-only cases. Need doesn't stop just because a child reaches a certain age. I cannot recommend the expansion of the IRS program strongly enough. This recommendation would not only benefit me, but all the parents who are not on public assistance of some kind and who are raising families.

Your support in this matter has been greatly appreciated and I hope we can work together for many more years.

Sincerely,

Anne N. Davies

Anne N. Davies

and

Acting Chairman DOWNEY. Thank you.
Ms. Jensen.

## STATEMENT OF GERALDINE JENSEN, NATIONAL PRESIDENT, ASSOCIATION FOR CHILDREN FOR ENFORCEMENT OF SUPPORT, INC.

Ms. JENSEN. Good morning, Mr. Chairman, and members of the committee. Thank you for this opportunity to testify today.

I'm here to represent ACES, the Association for Children for Enforcement Support (ACES). ACES is a child support advocacy organization with over 15,000 members nationwide who are owed child support. We have chapters in 35 States.

Every month, ACES receives thousands of phone calls from families owed support. Behind every phone call is a family usually headed by a woman. She cannot buy food to feed her children, she cannot pay the rent, she cannot take her children to the doctor when they are sick, because she has no money. Someone owes the children support.

The 1984 Child Support Amendments were an attempt to help these families. IV–D agencies across the Nation are doing more than they were in the past, but they are coming nowhere near to what the law requires.

In 1986, the Federal Office of Child Support reported that 10 percent of the cases where families receive AFDC, received child support collection, and that only 20 percent of the families not on AFDC helped through the IV–D program received payment.

States are reporting an increase in dollars collected in 1986. It does not truly reflect better enforcement. States were not required to report non-AFDC collections before last year. Therefore, increased dollars are really only moneys that they were already collecting.

About one-half of the AFDC families are in need of establishment of paternity. ACES members report that paternity is listed as a low priority throughout the Nation.

We were recently told by a IV–D attorney in San Antonio, Tex., that the criteria used to establish paternity, if a case is processed for paternity, is based on the interview that the attorney has with the woman. If the attorney feels that the woman is too timid to withstand a jury trial. They do not process the case. This is outrageous in lieu of available genetic blood tests and expedited process requirements.

In large cities in the United States, it takes 2 years to establish paternity through an IV–D agency. We have families that call us and report that they've been trying for 7 or 8 years just to get their paperwork processed.

We are recommending that laws require action on cases within 30 days of application by a client. And that States be required to use expedited process. States should also be required to establish paternity for a certain percentage of cases based on the number of children born to parents who were never married in that State. So that the State has goal, and that when the Federal Government audits them, there is specific criteria they're checking.

Thirty-two States and jurisdictions have been found in noncompliance with Federal laws by the Federal Office of Child Support. After Ohio was found in noncompliance, the State IV-D Director told me that they would get an extension from the Federal Government, they would get around following the law eventually.

ACES hopes that threats of cuts in funding against States like Ohio become a reality. However, Federal penalties that currently cut AFDC funds hurt mothers and children. They do not hurt the local IV-D agency which is not acting on the parent's case.

Especially in States where the system is State supervised and county run, counties can continue to receive Federal reimbursement and incentives while being in noncompliance with Federal laws.

Ohio responded to this problem by enacted State laws which require sanctions against noncompliant counties.

ACES recommends that Federal law require all States with a State supervised county run program to have sanctions passed down to the county.

Federal penalties should be against the reimbursement and the incentives received by the State rather than AFDC funds. Mothers and children rely on AFDC funds because they're not receiving child support.

Another problem with the Federal funding process is that there are loopholes which allow a county or State to provide little or no financial participation. In the county in which I live, the IV-D budget for 1985 was $700,000. The reimbursement received was $490,000. Incentives were $270,000. The total amount received was $760,000. This was $60,000 over costs. These moneys were then placed in the county general fund and were not spent on child support, even though in my county the average caseload for a worker is 3,000 cases.

ACES is recommending that the Federal law mandate staffing levels for child support and prohibit IV-D funds from being spent on anything besides child support.

Federal law allows nonpayers who are $1,000 behind in payments to be reported to consumer credit agencies. This has only become a reality in Alaska and Nebraska, where State law requires IV-D agencies to do so.

ACES is recommending that Federal law require all IV-D agencies to report nonpayers who are 1,000 or more behind in payments.

The expanded IRS offset program has been very successful. Over $345 million of back support was collected for children last year. Problems encountered by families with this program are due to the priority system. Federal income tax refunds are first attached for back taxes; second for AFDC; third, for past due student loans; and fourth for families owed support.

ACES is requesting that the priority system be changed to put families first. The system for collecting back support for families no longer on AFDC also needs to be revised. A family can be off AFDC for over 5 years and be owed $10,000 in back support. At the same time, $2,000 can be owed to AFDC. When these payments are currently collected, the AFDC arrearages are paid off first.

Families need these payments to buy food and clothing for their children. And if they are no longer on welfare, they should be receiving those payments first.

AFDC families currently receive the first $50 paid in support each month. This program provides them needed funds and provides them with an incentive to cooperate with IV-D agencies. However, the $50 received causes a $17 cut in their food stamps, and increased rent in low income housing. Some families actually report a loss in money each month due to this program.

The program needs to be revised so that the $50 is completely disregarded for eligibility for all Government programs.

ACES members around the U.S. report an inability to obtain entitled IV-D services for income withholding, location, and needed court actions. Frequently, it will take us 4 to 6 weeks to get an appointment with the IV-D agency. It will then take another 6 to 8 months for a case to be processed.

We recommend that IV-D agencies be required to take action within 30 days of application, and that a formal complaint process be established for families having problems with IV-D agencies.

Accountability is needed in the IV-D system. Currently, IV-D agencies contract out services to clerks of courts and county attorneys. This creates a system where no one is totally responsible. Children do not understand when they are hungry that the child support payment is being processed between two or more agencies. This process is taking 60 days in Mississippi.

Federal law should require child support payments collected to be distributed to families within 7 days or less after receipt. Guidelines for child support, assists families to receive adequate support. However, since it is only required that States have advisory guidelines for families, many children continue to live in poverty.

In Alabama, the judges enacted advisory guidelines. The average child support payment in Alabama is $20 a week, one-half the national average. The advisory guidelines are rarely used and, therefore, families continue to be dependent on welfare.

ACES recommends that the States be required to have guidelines which are rebuttable presumption to ensure regular use.

Ninety percent Federal funding has been provided to the States for automation. Most States are very slow in participating in this process. Even though it is the main excuse given to families for inaction on their cases.

Ohio put a statewide computer system in place for the lottery within 3 months. Ohio's child support computer will not be on line for 2 to 3 years. There's no good reason that States do not have a computer system in place and have it done within a specific time period.

Location of absent parents is a major problem for families due to lack of knowledge of the parent's Social Security number. States should be required to have laws which place Social Security numbers on marriage licenses and birth certificates.

The Federal law requires equal services for welfare families and nonwelfare families. Unfortunately, this has not happened in all 50 States. In New Jersey and in New York, families on AFDC are provided with legal representation at a court hearing. Non-AFDC families are not. These mothers cannot compete against a nonpayer and their attorney. Equal services for families should include legal representation, and this requirement of the Federal law should be enforced.

—Families owed child support should be allowed to see their IV–D file. Some States, such as North Dakota, state that the file belongs to the payor. Federal law prohibits disclosure of IRS and Social Security information, but should specifically allow IV–D clients to see the rest of their file.

Income withholding for child support upon a 30-day default is outlined in the 1984 amendments. States report that this is being done in only about 25 percent of the eligible cases due to problems with backlog of cases, lack of expedited process, and low staff.

Wisconsin and Ohio have enacted laws which require income withholding at the time of divorce, dissolution and establishment of paternity. Massachusetts and Texas have laws that allow income withholding at the time the order is established, and Minnesota has established a five-county project for income withholding at the time of divorce or establishment of paternity.

Collections have increased dramatically due to mandatory income withholding. ACES is suggesting that income withholding be mandatorily applied in all 50 States.

Effects of visitation upon child support has not been clearly established. Some States still allow denial of visitation as a reason not to support children. Two rights do not make a wrong. Parents should not be allowed to take food out of their own child's mouth due to a dispute with the other parent. Federal law should specifically State that visitation interference cannot be used as a defense for nonsupport.

Medical support enforcement is needed by many families. Federal law only requires that IV–D agencies establish orders for medical insurance if available to the payor. Many families already have medical support orders. And the payor has already been ordered to carry insurance for their children, but they do not comply with these orders. IV–D agencies should be required to not only establish but enforce medical support payments for families in need.

Many families remain dependent on AFDC due to lack of adequate medical care for their children.

Public support for child support is needed. Currently it's very difficult to find statistics of that child support enforcement program anywhere in the Nation. Federal law should require that IV–D agencies to publicly report the number of cases, number of collections made, number of orders established, and the amount of arrearages owed in each local and State jurisdiction. This will help the public understand that we are spending a great deal of money on AFDC which could be avoided if child support was collected.

Thirteen million children in the United States are poor; 87 percent of these children are entitled to support. Establishment and enforcement of child support will end the cycle of poverty for many children. ACES sincerely appreciates your efforts and concerns for children who are affected by parents who fail to meet legal and moral child support obligations.

Thank you very much.

[The statement of Ms. Jensen follows:]

ACES

1018 Jefferson Avenue
Suite 204
Toledo, Ohio 43624

ASSOCIATION FOR CHILDREN FOR ENFORCEMENT OF SUPPORT, INC. • 419-242-6129

February 22, 1988

Good Morning, I am Geraldine Jensen, National President of ACES, The Association for Children for Enforcement of Support. ACES is the largest child support advocacy organization in the United States. Membership consists of over 15,000 families owed child support. ACES has chapters in 35 states. We meet monthly with county, state, and federal public officials responsible for the IV-D program. ACES members participated on State Child Support Commissions and State Child Support Guideline Committees to assist with the implementation of the 1984 Child Support Amendments. ACES receives thousands of phone calls each month. Behind every phone call is a family. Generally from a family headed by a single women. She can not buy food for her children. She can not pay the rent or mortgage. She can not take the children to the doctor when they are sick because she has no money. Someone owes these children money. The 1984 Child Support Amendments were an attempt to assist these families. IV-D Agencies around the nation are doing more to enforce child support orders than in the past, but they are not coming anywhere near what the law requires.

The most recent statistics from the Federal Office of Child Support show that the average collection rate for families receiving Aid to Families with Dependent Children is only 10% and for non-welfare families, the collection rate is 20% on IV-D cases. Although, States are reporting increased dollars collected these statistics do not really reflect effective enforcement activities. States were not required to report collections for families not receiving AFDC until 1985, thus; an increase in 1986 of dollars reported is only the non-AFDC dollars they were already collecting. Approximately, one-half of the families subsisting on AFDC are in need of establishment of court orders for child support. ·ACES members in need of establishing paternity report inaction on their cases by the IV-D agencies. Many State IV-D Agencies list establishment of paternity as a low priority. I was recently told by a IV-D attorney in San Antonio, Texas that few paternities were done because the criteria to decide if a case is to be processed involves the attorney's assessment of the client during an interview. If the attorney thinks that the woman is too timid to stand up under cross examination at a jury trial, the case is not processed. This criteria is totally subjective and unreasonable in view of the genetic blood tests available and the requirements of federal law for expedited process to establish of paternity. In spite of the low number of cases where paternity was to established, Texas passed the last federal audit. The average length of time to establish paternity in a large metropolitan area in the United States through a IV-D agency is two years. ACES suggests that federal laws be enacted which require State IV-D Child Support Agencies to initiate action with-in 30 days. This is the same standard currently used for AFDC. Further, each year states should be required to establish paternity for at least 70% of the AFDC cases in which children are born to never married parents. States should be required to use expedited process to establish paternity or be penalized by cuts in federal re-imbursement funds.

Currently, 32 states and jurisdictions have been notified of cuts in federal funding due to non-compliance with federal laws and rules. This is the first time that states have actually been notified of possible penalties even though many states have been found in non-compliance in the past. In a recent conversation I had with the State IV-D Director of Ohio, whose agency has been found in non-compliance, I was told that no corrective action was planned by the deadline. She said they would be able to get an extension from the federal government and that they would "get around to following the law" eventually! ACES hopes that threats of penalties for states like Ohio where the State supervises county-run operation will become a reality.

Currently, federal penalties which cut AFDC funds to the State hurt mothers and children, not the local IV-D agency. The county Child Support Agencies will continue to receive 68% federal re-imbursement and 6% incentives even if in non-compliance with federal laws. Ohio has responded to this problem by enacting state legislation which allows sanctions against non-compliant counties. Federal laws should require that all state supervised county-run IV-D programs have provisions to sanction non-compliant counties. Federal penalties should be against federal re-imbursement and incentives rather than against AFDC funds. AFDC funds are what mothers and children not receiving child support rely on to subsist.

Another problem with the federal funding process is that it allows state or county IV-D agencies to maneuver funds so that there is little or no state or county financial participation. For example: A county or state can get 68% re-imbursement and 6% incentives and make a "profit" on child support enforcement. In the county in which I live the budget for child support in 1985 was $700,000 they received $490,000 re-imbursement and $270,000 incentives to total $760,000. The $60,000 over costs was then placed in the county general fund and not spent on child support enforcement. No actual state or county dollars were used even though the caseload per child support worker was over 3000! Federal laws should mandate staffing levels and prohibit IV-D funds from being spent an anything besides child support enforcement.

The 1984 Amendments allow non-payors who are $1,000 behind in payments to be reported to consumer credit agencies. This has not become a reality for families in the United States owed support because the states were allowed to enact laws that require consumer credit agencies to contact the State IV-D Agency. Reporting does not occur routinely in any states except Alaska and Nebraska where state law requires the IV-D Agency to do so. ACES recommends that federal law require IV-D agencies to report non-payor $1,000 behind in payments to credit agencies after due process rights which currently exist in the law are provided.

The 1984 Amendments revised the federal offset program to include attachment of federal tax refunds for non-AFDC families and to establish state offset programs. The program has been very successful and over 1 Billion dollars of back child support was collected. ACES members are experiencing some problems with the offset program because of the current priority system. Federal income tax refunds are first attached for back taxes, second for past due student loans, third for child support arrearage owed to AFDC, and fourth families owed support. ACES is requesting that the priority system be changed to make families first and assist them to remain free of the welfare roles. The priority system for collection of back support for families who are no longer AFDC recipients also needs to be revised. Currently, a family who has been off of welfare for five years may be owed $10,000 in back support and on the same case $2,000 may be owed to AFDC. The family need arrearages to buy food, clothing, and pay rent. Many payors are making small payments. Even these small payments may mean the difference between self sufficiency and welfare dependency. A system should be developed, whereby; the family no longer on AFDC receives arrearages paid first. Families currently receiving AFDC are entitled to the first $50 collected per month on child support. This program provides families an incentive to cooperate with IV-D agencies to establish and enforce orders. However, when these families receive the $50 they suffer from a $15 cut in food stamps and increase rent in low income housing. Some families report an actual loss of money each month due to the current "$50 disregard" program. ACES recommends increasing the amount of the disregard or at the very least not counting it as income used for all types of government benefits.

ACES members throughout the United States report problems with obtaining entitled IV-D services for enforcement of child support orders. This includes: income withholding, location of absent parents, needed court action for orders to post bonds, place liens, attach unemployment, etc... Frequently it will take 4-6 weeks to get an appointment with the IV-D agency and then 6-8 months before action is taken on a case.

ACES recommends that IV-D agencies be required to take action with-in 30 days of application and the states be required to have a formal compliant process to assist families encountering problems with local agencies. Families are told, "it's not our fault, its the judge's fault". The judge says, "it is the state's fault", and the state tells families, its the federal government's fault". A clear structure of accountability is needed. Current provisions of federal law which required a single state agency need to be enforced. This agency should have the specific responsibility to file a Writ of Mandamus against any government entity in non-compliance with laws. The current system of State IV-D Agencies contracting out services to county clerks of court, county attorneys, county judges, etc makes for a system where no one is really totally responsible and accountable. Children do not understand when they are hungry that the Clerk of Courts is in the process of sending the child support payment to the State IV-D office who will eventually send it to the family. The process of receiving a child support payment after it is paid is currently taking over 60 days in Mississippi. Federal laws should be enacted which required that funds are received by families with-in 7 days or less after payment. Current ten day payment process requirements only apply to income withholding cases.

Guidelines for the amount of child support to be paid is a major step forward for children owed support in the United States. However, since the 1984 Amendments only required that the guidelines be advisory they are not helping families in all states. In Alabama the average child support payment is only $20 per week-1/2 the National average. Alabama judges have elected to have advisory guidelines and unfortunately they are rarely used even though this would end welfare dependency for many families. Federal laws need to make guidelines a rebuttable persumption to ensure routine usage.

The 1984 Amendments provided 90% federal funding for State IV-D Agencies to become automated. Some states have chosen not to participate and others are very slow in participating in automation. Even though the main excuse told to families for months of delays of action on their cases is lack of automation. Federal law should required states to have statewide computer system and to do so within a specific time period. A statewide computer system was recently put in Ohio for the lottery within three months. There is no good reason that it will take 2-3 years for most states to have automation in place.

Location of absent parents continues to be a problem for many families. The Federal Inspector General's Office recommended that IV-D agencies contract with credit agencies to locate absent parents, yet many agencies have not done so. Federal rules allow this to occur. States should be required to develop their own process or enter into contracts to provide this needed service. Since the lack of knowledge of an absent parent's social security number is a problem. States should be required to have laws which list social security numbers on marriage licenses and birth certificates.

The 1984 Amendments require equal services for AFDC families and non-AFDC families. Unfortunately, this has not happened. In New Jersey and New York, AFDC families areprovided with legal representation at court hearings and non-AFDC families are not. IV-D agencies should provide families with legal representation. Otherwise, the non-AFDC families will soon be part of the AFDC fmailies. The can not sufficiently represent themselves in a court hearing against a non-payor who has legal representation. Non-payors who are low income are provided a public defender if facing a jail term. Low income families owed support are not. Families owed support should be allowed to see their IV-D file to ascertain if the agency has taken appropriate action. Currently, some States such as North Dakota say that the IV-D file belongs to the payor. Federal law prohibits disclosure of IRS and Social Security information, but should specifically allow a IV-D client to see the rest of his/her file.

Mandated income withholding for child support upon a 30 day arrearage is outlined in 1984 Amendments. States are reporting that income withholding is only being done on about 25% of the eligible cases.

Problems include: The massive back log of cases, lack of utilization of expedited process, low staff to process the cases, and difficulty obtaining information about the place of employment of the non-payor. Wisconsin and Ohio have enacted mandatory income withholding at the time of divorce, dissolution, or establishment of paternity and Minnesota has established a five county pilot project. Collections due to this process have increased dramatically. Mandatory income withholding has decreased problems with locating non-payors after 30 days deliquency and makes it very clear to parents that obligations to their children are their first priority.

The effects of visitation upon child support have not been clearly established. Studies done in North Carolina show that 13% of parents who fail to support children had a visitation problem. Some states still allow denial of visitation as a reason to not support children. Two wrongs do not make a right. Parents should not be allowed to take food out of their own child's mouth because they are having a dispute with the other parent. Federal law should clearly indicate that visitation interference can not be used as a defense for non-support. Families with visitation problems should be required to take visitation issues to the court separately from child support issues.

Collection of large child support arrearages is a major problem for many families, It could be beneficial to some families if the federal pension law, ERISA, was revised. The anti-alienation cause prevents pensions from being attached for current child support and arrearages. Changes need to be made which allow attachment for child support and alimony before pay out, including after death if the beneficiary receives the pension monies. The same provision in the Retirement Equity Act also needs to be revised.

Another area of concern for many families is enforcement of medical support. Current federal law only requires IV-D agencies to establish medical support orders if insurance is available to the payor. Many families have orders for medical support and payor has insurance and/or the ability to help pay medical bills but he/she will not voluntarily assist. IV-D agencies should be required to seek and enforce these court orders when appropriate. Many families remain dependent on AFDC to ensure medical care for their children. This would not be necessary if medical enforcement was a routine function of the IV-D agency.

Public support for child support enforcement is needed to ensure that funding for the IV-D program remains a priority. The general public is not aware that in 1986 the United States Government spent 13 Billion dollars on the AFDC program and that in that same time period it is estimated that 9 Billion dollars of child support arrearages continued to accumulate. State and local IV-D agencies should be required to publish an annual audit of the number of child support cases, number of cases in which collection were made, number of cases in which orders were established, and the amount of arrearages owed on cases. The public has a right to know if our tax dollars are being wisely spent and to hold the IV-D agency accountable.

Thirteen Million children in the United States are poor. 87% of these children are entitled to child support. Enforcement and establishment of child support orders will end a cycle or poverty for many children. ACES appreciates your concern and efforts for disadvantaged children affected by parents who fail to meet legal and moral child support obligations.

Thank you.

Acting Chairman DOWNEY. Thank you, Ms. Jensen.
Ms. O'Connell.

## STATEMENT OF MARJORIE A. O'CONNELL, PRESIDENT, DIVORCE TAXATION EDUCATION, INC.

Ms. O'CONNELL. Good morning, Mr. Downey.

Mr. Chairman and members of the committee, thank you very much for the opportunity to address you this morning about improving collection procedures in child support.

I am the president of a company called Divorce Taxation Education, Inc., but I want you to know I'm a practicing tax lawyer. And I specialize in the area of divorce taxation. And my comments about the tax system and improving collection of child support stem from my professional practice, as well as my professional interest in disseminating information about this issue.

I found it a most surprising fact when I heard from Ms. Jensen that Ohio got its lottery computer up in 3 months but it's going to take 3 years for the child support enforcement system.

I have another surprising fact. In 1984, when the United States enacted child support enforcement amendments, it repealed the tax deductibility of payments of family support, which include child support.

I feel a little bit as though I'm preaching to the choir probably in front of me as well as behind me in today's audience, because that development occurred not in the Ways and Means Committee consideration or on the House side but arose in the Senate Finance Committee and came out of the conference.

I urge you to have the Government stop being at cross-purposes about child support collection. While, on the one hand, elaborate Federal programs set up systems to determine and collect child support, on the other hand, the Federal tax system provides significant disincentive for making child support payments.

In my opinion, the way to make the tax support system actually foster the payment of child support and the collection of child support is to recognize a new type of support called family support. Family support would be any payment to the parent of a child who is the spouse or former spouse of that child who has custody of the child.

The testimony which I am summarizing here this morning is replete with statistics which I will simply highlight here, and I respectfully request the opportunity to have my testimony accepted into the record.

The highlights are we know that 90 percent of the children who need child support are in the custody of their mother who is a single parent. We know that an alarming more than half of the amount that should be paid that we have endeavored to collect through this elaborate federal system is still not being paid to that mother.

We also know that those mothers are making a mean income of less than $11,000 a year on which they are supporting, most of them, two or more children. We know that they do not have the luxury of using their child support payments only for their children. But that as a matter of fact, at least half of that money, and probably more of it, pays the rent, pays transportation, and pays for food.

Family support acknowledges what we ought to know, and that is that 9 out of 10 times a woman who doesn't make a lot of money takes care of children who don't get a lot of money, who, half the time, never see the money that's allocated to them anyway, who ought to have every kind of carrot the Government can use to encourage the parent to take out the checkbook and write that check every month.

The Federal tax system simply should not create any disincentive whatsoever to paying family support, and should acknowledge the reality of what family support is.

It was, if I may wax historic just a moment, in 1942, that the Government thought it would be important to distinguish between alimony money to a former spouse for support and support for children, and made the former deductible and the latter not deductible.

In 1988, it makes precious little difference. If mom can walk out of the courtroom, she doesn't get any alimony unless she's over 60 and been married for 30 years. And any familiarity with a case to the contrary is a unique exception and probably a property settlement disguised as something else. Let's not kid ourselves. Family support is a check drawn to an adult because you don't draw them to children. It is for the support of children.

In the second place, the Federal Government should meet itself coming and going. The Child Support Enforcement Act should treat an award of family support as an award of child support. Let us restore the carrot and let us expand the stick.

In sum, I urge you to consider, along with your review of the child support enforcement amendments, another amendment which I set forth in my testimony. To expand the definition of child support to include family support, and to include family support as a collectible payment in all of the child support enforcement amendments.

And, in addition, to amend the Internal Revenue Code to make any payment to a spouse or a former spouse and the child of a payor a family support payment, and make that payment includable in the income of the recipient and deductible to the payor.

Thank you.

[The statement of Ms. O'Connell follows:]

## Testimony of Marjorie A. O'Connell

### President, Divorce Taxation Education, Inc.

My name is Marjorie A. O'Connell. I am testifying today as the President of Divorce Taxation Education, Inc. I want to thank you for the opportunity to testify about the need to improve child support collection and about ways that the Federal tax system can be used to improve these collections.

I want to congratulate the Subcommittee for recognizing the need for these hearings. Too often, Congress will enact legislation such as the Child Support Enforcement Act and then assume that the problem will be solved. Despite the progress that has been made, we have not yet achieved adequate mechanisms for child support collections. Today, I will suggest a new, previously unconsidered way to speed the progress toward a better child support collection system.

Divorce Taxation Education, Inc. is a publishing and teaching company for professionals involved in divorce: lawyers, accountants, financial planners, enrolled agents and other professionals who advise parties about the financial aspects of their divorces. During the last year, I have spoken more than 20 times to groups of these professionals across the country. The concerns that I express to you today are drawn from the concerns and frustrations of the thousands of professionals with whom I have dealt.

Because average child support awards were so low that many children fell below the poverty level,[1] and because when awarded, child support was frequently not paid,[2] Congress enacted the Child Support Enforcement Amendments of 1984. One part of this legislation required each state by October 1, 1987 to establish child support guidelines for its judges and other officials empowered to set child support awards. In H.R. 1720 as passed by the House, the requirements for these guidelines would be substantially revised.

While adoption of child support guidelines by a state can have a substantial impact on the levels of child support awards and the manner in which those awards are set, guidelines alone cannot reduce the economic burdens experienced by a large proportion of single parent families. The Subcommittee has heard from many experts about the problems facing single parent families. After the breakup of a marriage, the mother is more likely to be granted custody of the children. Ninety percent of children living in single parent homes live with their mothers.3 On the average, women earn less than men after a marital breakup.4 After separation, most women and children are economically worse off than while the parents were married and living together.5

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[1] According to the most recent Census Bureau statistics, the average amount of court ordered child support in effect in 1985 was only $2,390 per year, or $199 per month. This amount was paid to support an average of 1.7 children. Bureau of the Census, U.S. Department of Commerce, Child Support and Alimony: 1985, Current Population Reports, Series P-23, N. 152, at 1 (1985). In 1987, the poverty guideline is defined as $458 per month for the first household member and $158 per month for each household member thereafter. 52 Fed. Reg. 5340-41 (1987). Thus, the average child support award has not even been at one-half the poverty level.

[2] The Census Bureau reported that of the 4 million women that were due to receive child support in 1981, fewer than 2 million (47%) received the full amount awarded. (Census Report, Child Support and Alimony, 1981, Current Population Reports, Series P-23, No. 124, at 1-2 (1985) ("Census Report").

After a marital breakup, women are required to support children while earning low wages and receiving inadequate child support. Substantially more female-headed families live below the poverty line than married-couple families. This fact is more disturbing when one realizes that the number of female-headed families is rising steadily, both in absolute terms and as a percent of total families.6

Members of the Subcommittee, today I want to address the role of the tax system in collection of child support. Since 1981, Federal tax refunds have been subject to intercept if the taxpayer has certain unpaid child support obligations. The obvious drawback of a refund intercept system is that a child support obligor can avoid any intercept by ensuring that no refund will be owed. The system may catch an obligor once or twice, but not every year during the minority of a child.

While the intercept system on the one hand gives relatively minor assistance to child support collection, on the other hand one aspect of the tax system acts as a major impediment to the voluntary payment of child support. The obstacle to which I refer is the tax treatment of child support and alimony. The problems arise in significant part from the artificial distinctions made by the tax law between payments for child support and payments for alimony.

The focus on "child support" as an answer to the problems facing the single-parent family after a divorce ignores the reality of the situation. The typical family headed by a female is poor and most family expenses are commingled expenditures which

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[3] Census Report, Child Support and Alimony, 1981, Current Population Reports, Series P-23, No. 124 at 1-2 (1985) ("Census Report").

[4] Demographic studies show that women who re-enter the work force after many years at home have little chance of finding a high-paying job. Almost half (45%) make less than $10,000 a year. Another 30 percent earn between $10,000 and $20,000. American Demographics, Displaced and Desperate, V. 9, January 1987, at 16(1).

[5] In fact, the Census Bureau reported that the mean income of women to whom child support was due in 1983, was $10,226 net of child support. Census Report, Current Population Reports, Series P-60, No. 144, Characteristics of the Population Below the Poverty Level (1982).

[6] The number of female-headed families has increased from 1.89 million in 1960 to 5.72 million in 1983. This represents an increase from 7% to 19% of all families. In FY 1982, 20% of the 62.4 million American children under age 18 were living with their mother only. House of Representatives, Select Committee on Children, Youth, and Families, U.S. Children and Their Families: Current Conditions and Recent Trends, May 1983, pp. 8-9.

benefit all household members.7 It is unrealistic to base a system on the separation of a child's share of major household expenses (i.e., rent, transportation, food) from the parent's share of those expenses. Where funds to support the family are limited, a greater proportion of funds designated as "child support" must be used for these major household expenses.

The everyday economics of a female-headed family make precise determinations of how much support is allocable to individual family members impossible. In the typical family headed by a female, it is clear that the distinction between alimony and child support is a myth. For the typical female-headed family, the luxury of using support payments only for children is not possible. All sources of support (i.e., wages, alimony, and child support) must be combined merely to provide the necessities of life. Yet, the present Internal Revenue Code treats child support payments completely different from alimony payments. Child support payments are not deductible by the payor and are not taxable to the custodial parent. On the other hand, alimony payments are deductible by the payor and taxable to the payee.

Ironically, the present tax rules that contain unworkable distinctions between alimony and child support were enacted in 1984, the same year as the Child Support Enforcement Act Amendments. Before 1985, the rule in Commissioner v. Lester8 applied, such that only amounts clearly fixed as child support were treated as nondeductible child support. Lester, to a large extent, allowed a divorced couple with children the flexibility to determine the tax consequences of support payments. Under current law, however, this flexibility to mix alimony with unspecified amounts of child support for purposes of limiting the total taxes paid by both spouses is no longer available. The result is that the total tax burden of the custodial and noncustodial parents is increased. The tax savings which formerly were available for supporting the family are no longer available.

This tax problem will become even more pronounced if H.R. 1720 is enacted as passed by the House. H.R. 1720 would produce more child support awards based on mechanical formulae. Under current law, each state must have guidelines for setting the amount of child support to be paid. These awards are generally stated as "child support" and will usually be treated by the public as nondeductible. Currently, however, even with the anti-Lester rules in the tax law, it is possible, with careful planning, to achieve deductibility of child support. If the requirements for guidelines are modified to be even more mandatory, it may be impossible to achieve deductibility for child support.

The tax problems that the guidelines can cause have been vividly pointed out in Wisconsin. Wisconsin law has been cited as a model for the type of guidelines that should be required in every state. Wisconsin, however, is also a model for the tax problems that every other state may soon face. The IRS District Director in Wisconsin has issued a news release which states that the amount determined under the Wisconsin child support guidelines is treated as child support for tax purposes. It does not matter what the divorcing parties or the divorce court may say about the actual support obligation and the method of payment of that obligation. In Wisconsin, the child support guidelines have had the unintended effect of eliminating tax planning involving children in a divorce.

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7 It is estimated that over 50 percent of family expenditures on children fall into just three categories: food, housing and transportation. T.J. Espenshare, Investing in Children: New Estimates of Parental Expenditures (1984), at 44-59.

8 366 U.S. 299 (1961).

The result is that Wisconsin parents who get divorced pay more taxes than parents in other states who get divorced.

The "child support" label has financial consequences apart from the tax problems. In addition to the nondeductibility of child support, the "child support" label does not recognize that a support award should be based on the total economic situation of the spouses. The award is really for the support of the household in which the child resides. The label "child support" is inaccurate and misleading.

## THE MARRIAGE DISSOLVES, BUT THE DUTY CONTINUES

The solution to the problems of the current tax laws and child support enforcement laws is to take a new approach about support payments made during a separation or after a divorce. That new approach is "family support". Because the lines between alimony and child support are ambiguous at best, the concept of "family support" should be added to both the Child Support Enforcement Act and the Internal Revenue Code.

"Family support" is paid to a spouse (or former spouse) and children of the payor. It does not matter whether a portion of the amount paid was payable with respect to a spouse and a portion was payable with respect to children. The family support payment would be treated the same by the Child Support Enforcement Act and the Internal Revenue Code, regardless of the amounts payable with respect to a spouse or a child.

## FAMILY SUPPORT AMENDMENTS TO THE CHILD SUPPORT ENFORCEMENT ACT

Title IVD of the Social Security Act of 1935 relates to child support and the establishment of paternity. 42 U.S.C. 654 is the key provision that requires States to have a plan for child support determination and collection, including paternity determinations. 42 U.S.C. 667 requires a State to establish guidelines for child support award amounts to have the State's IVD plan qualified.

Incorporation of the family support concept would require two amendments to the CSEA. The first amendment would be to 42 U.S.C. 667. That section would have to include a "family support award" in the definition of a child support award. A family support award would be a payment to a payee spouse (or former spouse) and a child or children of the payor spouse.

This amendment would allow a family support award to fulfill the requirements of the child support award guidelines. Any award to a spouse (or former spouse) and child could qualify as a family support award. An award that is intended solely for the support of the children could be denominated as either a family support award or a child support award.

The second amendment to the CSEA would provide that a family support award must be treated the same as a child support award for collection purposes. Title IVD of the Social Security Act provides that spousal support evidenced by a support obligation can generally be collected through the child support enforcement mechanisms. Spousal support awarded to an AFDC recipient can be collected, as can other spousal support provided that the child is living with the recipient spouse and child support is being collected along with spousal support. Family support would receive the same priority for collection as child support.

## FAMILY SUPPORT AMENDMENTS TO THE INTERNAL REVENUE CODE

The 1984 amendments to Internal Revenue Code Section 71(c) repealed Commissioner v. Lester. These amendments created a tax disincentive to paying all support, except alimony. The amendments are at odds with the need to encourage parents to pay their entire family support obligation.

The alimony provisions of the Internal Revenue Code (Section 71) would be amended so that family support would receive the same tax treatment as alimony. Family support would be deductible by the payor and taxable to the payee.

"Family support" is any amount that a spouse (or former spouse) is ordered or agrees to pay to a spouse (or former spouse) and a child or children. Support fixed solely as "child support" would not be "family support" for purposes of Section 71.

All of the rules in Section 71 about alimony would apply to family support. Family support would be includable in the payee's income and deductible by the payor unless the controlling document specifically stated otherwise. The recomputation rules of Section 71(f) would apply to family support.

The rules in Section 71(c)(2) about child-related contingencies would be repealed. Therefore, unless the controlling document fixed specifically an amount or percentage of a payment as child support, payments for a spouse and children would be treated as family support.

The result of making all family support deductible by the payor and taxable to the payee is illustrated by the following example.

Example. Sarah, a divorced spouse with an 8-year-old daughter and a 6-year-old son, works full time in 1988. She earns $10,226 for the year and qualifies as a head of household. Sarah and her children also receive "family support" from her former husband, Bill, of $550 each month, or $6,600 yearly. Sarah's adjusted gross income is $10,976 [($10,226 + $6,600 - (personal exemption of $1,950 x 3)]. Bill has an adjusted gross income of $24,450 for 1988. Assuming Sarah qualifies for the maximum child care credit of $1,392, she would have taxable income of $5,184 [($10,976 - $1,392) - standard deduction for head of household of $4,400]. Sarah's federal tax liability for 1988 would be $778 ($5,184 x 15%). Because Bill is able to deduct the full amount ($6,600) that he paid to support Sarah and the children, his taxable income is $17,850 ($24,450 - $6,600) and his tax liability is $2,678. As a result of the family support deduction, Bill reduces his 1988 tax liability by $1,848 ($6,600 x 28%). The total family tax would be $3,455. If the family support were not deductible, Sarah's taxable income would be $0 and her tax would be $0. Bill's taxable income would be $24,450 and his tax would be $4,525. The total family tax would be $1,070 higher.

## BENEFITS OF THE FAMILY SUPPORT CONCEPT

The principal purpose of the family support concept is to recognize that although the marriage dissolves, the duty to the "family" continues. As long as there are children in the custody of a parent, the need for family support is present. Family support would be one step toward a better economic future for all divided families. Family support's main beneficiaries would be the children, who are everyone's future.

Acting Chairman **Downey**. Thank you.

I want to thank all the members of the panel for your testimony. I personally find it helpful and instructive. There are a number of very interesting ideas, and I have a couple of questions.

Let me start, Ms. O'Connell, with your suggestion that the child support payments to the custodial parent by the noncustodial parent be deductible.

How would you explain to the married father or mother that they don't get a deduction for the child support that they render on a daily basis? Why should taxpayers who are meeting their obligations subsidize those who aren't?

Ms. **O'Connell**. Mr. Chairman, you asked me the often asked question to which my standard pat answer is this:

Dear happily married well-to-do families: You have to know the expense and the heartbreak of divorce. You have to know the costs of providing two households for children. You have to know the extraordinary costs of food and transportation and clothing ofttimes for two different life styles and two different environments. You need to know the additional costs of medical, social, and sometimes psychiatric care. You probably ought to think about what it is like on a little less than $11,000 a year to maintain a home for an adult and two children. All of our child support statistics tell us that those 90 percent of the cases where mom has custody of the children are families that are living at and below America's poverty level.

Dear happily married people, do not be proud that the situation continues to exist, but reach out a bit to acknowledge that it's a wonderful thing when our tax system can do something for you without doing anything to you. You don't have to talk to the tax collector to institute the system I propose. You can simply work outside the Federal computers as long as you continue to pay. We don't ask people who get no tax advantage for caring for their children as they may want, need, and are able to do, to do anything more than acknowledge that at virtually no cost to the Government, a system can be instituted to take care of the people who are not as well off as they.

Acting Chairman **Downey**. I have great sensitivity, as do the other members of the committee, to the plight of single mothers attempting to raise children. That is why we are having these hearings.

But the equity question can stand on its head. There are lots of poor parents out there who stay together, who also pay taxes. And what you suggest amounts to a subsidy to those who don't want to.

And I think there are better ways to do it, frankly, than to do it this way to provide a deduction. I am curious as to whether you think it would be more likely or less likely that payments would be made if there were deductions?

Ms. **O'Connell**. I think it is significantly more likely.

Acting Chairman **Downey**. Would it be a greater incentive then as well for people who make tax considerations on the margins to stay together?

I do not imagine that that would be a consideration. But if suddenly these benefits that the father or the mother were now going to be deductible, might that not be a factor he or she would consider?

Ms. O'Connell. Not unless he has gone mad, with all due respect, Mr. Chairman.

You know families—families—get divorced about issues that do not start out having to do with money. They end up having to do with money, because our system of laws in the States requires dividing a lot of property and shifting a lot of money between two angry people. And it costs money just to do that.

But that is not where the consideration starts. If I may, Mr. Chairman, I would respectfully direct your attention to an example that is on the last page of my testimony, and suggest for a truly not well to do divorced father and mother, but someone at the mean line income, the significant incentive to the payor that the institution of a deduction of family support would have.

In addition, I would recall for you again that the happy families who stay together did not riot in the streets sometime between 1942 and 1984 when the system I advocate restoring was in place.

I just do not think that the Nation's sensitivity about the result of what I propose, which makes for such an important incentive now, is as strong as some may describe it to be.

Acting Chairman Downey. Thank you. Ms. Wattenberg, could you cite for us the statistical basis for the fivefold increase I think you suggested from 1970 to 1987?

We are having some trouble determining that statistic from Census data.

Ms. Wattenberg. The data comes from the Marital Status Census Bureau. I do not have the complete—monthly, the current population reports, marital status and living arrangements, Census report and trend data.

Acting Chairman Downey. Thank you very much.

Can I also ask you, in H.R. 1720 we would have blood tests with at least a 95 percent confidence level, a rebuttable presumption in contested paternity cases.

Can I ask your opinion of that? Do you think that would make it easier for us to establish paternity?

Ms. Wattenberg. I think it's generally recognized now that we have the technological expertise, with a great deal of certainty, to establish it.

I think the barriers to it are the costs to the counties that have to bear the cost for indigent parents. That seems to be one cost they are very reluctant to take when there is any uncertainty.

So I think that is an issue that has to be addressed. But I think since the laboratory that has developed many of these tests is in Minneapolis, and we follow that work very carefully, there appears to be two items that ought to be tended to.

One is, very rapid responses to a request for blood test should be done, so that does not impede the process that ought to take place. Sometimes these are unconscionably delayed, which accounts for the fact that it takes sometimes 4 to 5 years for paternity to be adjudicated.

So that I think having the test available, and quickly dispensed with, for uncertainty reasons. And some allocation of costs between the Federal and State Governments, I think, for making this available to indigent parents, is certainly an item that needs attention.

Acting Chairman DOWNEY. So you would urge a greater Federal role here in terms of subsidizing paternity establishment?

Ms. WATTENBERG. Yes, absolutely. I think that it is not commonly paid attention to. But I do think IV-D offices are terribly overburdened and understaffed.

I happen to believe that most of them are very good public servants, and want to serve the public. And the inattention is really inadvertent.

The caseloads are overwhelming. They are awesome. And somehow or another, we have repeatedly not made available moneys that should go—I think the person who spoke for ACES is quite correct. When there is an overage of money from cost collection and reimbursement, it goes almost entirely to State funds.

And I think they ought to be directed to be turned back to the system, to amplify the resources there.

Acting Chairman DOWNEY. Yes. I listened with interest to Ms. Jensen's point about that. I am increasingly of the belief that these issues, if we allow them to continue to be resolved on a State-by-State basis, then we will have a system that in a mobile society like ours is just impracticable.

And there has to be a much greater Federal role. Poor children in Louisiana are as much a concern to this committee as poor children in New York and Ohio and Connecticut or Massachusetts.

Yet the President, of course, continues to look at this as a State issue. We will give careful attention to some of the points you have made on these matters, and see if we cannot begin to look more carefully at Federal rights of action and Federal rules, to do some of the things you suggested.

Mrs. Kennelly?

Mrs. KENNELLY. Thank you, Mr. Chairman. And I would like to join with those comments.

When you think that Ms. Jensen mentioned that in Ohio an individual had a caseload of 3,000, just to keep track of that would be almost impossible, let alone act on it.

Ms. O'Connell, I have a series of questions from having read your testimony. And I wonder, since there is a vote, and another panel is coming, if I could submit some of those questions to you in writing? And would you help us again, as you did in 1984 when we did the amendments then?

Some of your examples of shifting the tax question to the custodial parent has me a little concerned and I have got some questions. So I will submit those to you, and maybe we could meet and talk about them?

Ms. O'CONNELL. I would be honored for the opportunity, in person and in writing.

Mrs. KENNELLY. Ms. O'Connell, you said there is an elaborate system of Federal law in relation to child support enforcement. And I am aware of this, having been involved in the 1984 amendments.

And then we have Ms. Jensen coming before us and stating numerous suggestions for additional Federal law, and of course you have suggested changes in the Tax Code.

We had testimony the day before yesterday, most of the day, on child support enforcements. Now we know that some States had until October 1987, to comply with the new 1984 amendments. So we know that things are just beginning to fold in.

However, I keep struggling with a problem that maybe any one of you could comment on. I am beginning to wonder why we have such a complete lack of commitment to this whole question? I am beginning to wonder, is it the process that the problem lies in?

I am beginning to think should we commit to try to see if we can have the 1984 amendments carried out before we begin to load on new amendments and make the system more elaborate.

And I wonder if any of you would like to comment on that?

Ms. O'Connell. I will comment first, if I may.

The social problem that makes an individual willing to leave a family behind, and wanting not to keep in touch is maybe bigger than anybody's system of laws can change.

But to regulate a better result, I think you need on the one hand to address that problem, and on the other hand, to have the enforcement system.

We always use our tax system to create incentives to move people in their economic hearts and minds to do what we decide after a lot of consideration like this is right.

I think it is simpler to have a revenue raising system that sets up a regime where people can decide privately, perhaps with the assistance of counsel, that for the next 10 years, which may be the minority of their children, their economic situation is likely to be about like this.

And they can improve it if, between the two of them, they give less money to the government, but share it somehow by distributing it between them.

All of that private negotiation, private ordering we've called it in the domestic relations tax practice, gives people something they make; not something we dictated out of Washington.

And in the tax system at least, when we make it a disincentive or a complication—as quite frankly we've made it, and if I may, I emphasize this is always the case: if there is enough money around, if you can liquidate enough significant assets to move large amounts of cash, there is no problem deducting the child support.

The elimination of the deduction, the complexity of the system that took back family support and private ordering which people did for two generations, only hits the people who are not able to have sophisticated advisers or who have a lot fewer assets to liquidate.

So my experience is that if you take two individuals to the table and say, with our guidance, we will craft something that the two of you agree to and understand, and this is why it is advantageous for you to do it. Because if you don't do it, you lose the carrot, and here comes the stick in this particular arena. You are so much better off.

In a sense, the proposal I make at least for another law is in the nature of deregulation; take away that complicated system that was introduced in 1984 and let us return to private ordering if you will.

When people understand and do what they want to do, they tend to do it.

Mrs. Kennelly. Thank you.

Ms. Jensen. I think one of the problems is that the States enacted the bare minimum of the 1984 amendments. They enacted credit bureau reporting, but only if the credit bureau contacts the IV-D agency.

They enacted advisory guidelines, rather than guidelines as a rebuttable presumption. And that if the Federal Government will take action to become stronger with the States, that they have to meet specific requirements, the children will finally begin receiving the support they deserve; and that the States will continue to stay on the edge of this issue, and only do the minimum amount, unless they really have a strong lead from the Federal Government.

Acting Chairman Downey. I have a couple of points. I want to get back to Mr. Davis. One of the concerns we have, and I probably should have raised with Mr. Kanjorski, is that the tax refund offset has been an effective tool so far.

Indeed, the problem we have had with it, in some instances it may be too effective, because lawyers may be more interested in just seeing the 1-year payment and let the IRS go after it than they are in going after the monthly payments. That is one of our concerns.

A second concern is that we are not talking about, especially in the case of self-employed individuals, people who are unknowledgeable about the tax law. And it is reasonable to assume that people could change their withholding so that there is no refund, to avoid the intercept of the refund.

So we have some concerns about that. And I just draw that to your attention.

Mr. Davis. I think that is definitely feasible. But I have been handling, or acting as the coordinator, of the IRS in the county for the past 5 years. And we have intercepted gentlemen on the AFDC side for the last 5 years.

I have had men call me and say, at least I'm getting it paid off this way. There are two sides to every coin.

Acting Chairman Downey. No, no, and as I said, it is something we will consider.

The last question—actually, it is more in the way of a comment for you, Ms. Jensen, the information that this subcommittee got yesterday from Mr. Robert Harris—I do not know if you are familiar with him, from Health and Human Services, who seems to be a veritable fountainhead of information about this matter; I commend him if there is additional information nationally that you desire. He might be someone with whom I'm sure, if you haven't spoken with him, that you spend some time with.

Lastly, Ms. O'Connell, I'm intrigued by your point. You have made some interesting points, among them not so much that we should increase the deductions or allow deductions for support payments, but maybe end the deduction of alimony payments, might be another way of achieving the sort of equity.

I know it is not the way you think about it. But I am not sure I understand the historic rationale for the deduction to begin with.

We would have to get revenue estimates of how much the further deduction of child support would cost us. And I suspect that it would be a fairly large revenue number, in which case, that revenue foregone might be better used in more affirmative programs. But we will see.

Anyway, I want to thank the panel members for their testimony and their interest in this matter. It has been very helpful.

The committee will next hear Kevin Aslanian, Paula Roberts, and Gloria Samuels.

Mr. Aslanian, is that the correct pronunciation?

Mr. Aslanian. Aslanian. I am Armenian.

Acting Chairman Downey. Armenian?

Mr. Aslanian. Yes. We had a big demonstration.

Acting Chairman Downey. I noticed in Moscow the other day, yes. Well, I have been one of the fortunate citizens of our country to visit Yaravan (phonetic) and spend a great deal of time there.

Mr. Aslanian. I was raised there.

Acting Chairman Downey. Lovely place. If you would proceed with your testimony.

## STATEMENT OF KEVIN M. ASLANIAN, EXECUTIVE DIRECTOR, COALITION OF CALIFORNIA WELFARE RIGHTS ORGANIZATIONS, INC.

Mr. Aslanian. Thank you. My name is Kevin Aslanian with the Coalition of California Welfare Rights Organization.

Generally, from what I have read, most child support hearings revolve around how to give the district attorneys more tools to collect more child support, and rarely do they look at from the recipients' perspective as to what the lower income recipients and lower income child support consumers want.

We have talked to our local welfare rights organizations, and they talked to their members, and they brought back a number of concerns which I am bringing to you today.

The first primary concern was the $50 child support disregard. It takes weeks, months, sometimes maybe years, before you get that $50 disregard.

That is one of the positive features in child support. For a long time, the child support was collected and was given to the county welfare department. Finally a law was enacted to have a $50 child support disregard, which was actually a benefit to the children.

And the problem, I guess, is that the $50 disregard is collected, and the family has to wait for weeks and months. And I think what we would like to see is to put a time limit, like within 15 days when they get it, to get it to the AFDC mother.

The other game that is played is that if the father withholds two monthly payments, then pays it out in 1 month, then the family only gets one $50 disregard.

So conceivably, from the DA's perspective, it would be nicer for the absent parent to withhold the money and pay it all in one lump sum.

For example, if the monthly payment is $100 a month, and I'm the absent parent, if I wait for 6 months and then pay $600 in the month of June, then the custodial parent only gets $50, so the DA makes a fortune, rather than $300 going to the family, now they, the district gets $550.

So basically what you should do is change the law to say, if you get any number of payments, the first $50 of any monthly payment, and if it's five monthly payments, then the first $50 of each and every monthly payment shall go to the family within 15 days.

There is really no accountability on the part of the DA who is allegedly representing the welfare recipients, and who is the attorney to their clients. Most AFDC mothers haven't the slightest idea as to how much child support has been collected, when is it being paid, what are the amounts.

In fact, if they had this information, they could say, gee, I am getting $300 a month. And if I get a job, $400 a month, I can get off of AFDC and it makes sense.

But they do not have that knowledge, and therefore, they cannot make these educated decisions. And what we would propose is on either a monthly basis, or on a quarterly basis, the attorney should report to their clients as to what is happening.

I know that is tough to do, but I think attorneys should tell their clients what is happening.

Arrearages, the way arrearages works is that if I apply for AFDC today, and the reason I apply is because I cannot get my child support for the past 2 or 3 years, and that has accumulated $10,000 of child support payment, as soon as I apply for AFDC, I must sign a piece of paper saying, now the welfare department owns my $10,000. That is the price that I have to pay to join the AFDC rolls.

If I am on AFDC for 3 months and then I go off, I have kissed that $10,000 goodbye. I think that that is unreasonable, unfair, and on and on.

And what we would suggest, basically, is that the arrearages, if I sign over the arrearages, if it is collected, it should be only deducted to the extent that if I have been on AFDC for 10 months, then you collect 10 months of arrearages out of whatever you collected, the child support payment, less the $50 should go to the family.

There is a real problem about having access. There are a lot of barriers to participation in the child support services. There is no application process.

If you want to apply to AFDC, food stamp, you go down to the welfare department, you fill out a piece of paper, the process starts.

In child support, you go over there, you can wait around for 5 hours, and they say, gee, the person is gone. Come back tomorrow. Come back tomorrow. There is no way for you to enter into the system.

And they should have a simpler application form, that a person comes in and says, I want these services. You fill it out. Give it to them. Then they have 30 days to respond.

And there should also be a fair hearing system. If a person is dissatisfied with the services that they are receiving from the IV-D agency, they should be able to file for a fair hearing with an IV-A agency, which is the county welfare department, and get a fair hearing, have their grievances addressed somewhere.

And finally, there should be a quality control system. They sit over here and they say, we don't have enough money. And I don't know if they have enough money or not. All I know is that they have a legal mandate; they have a job to do, and they should do their job.

As to how they do it, that's what they get paid to do. And there should be a quality control system just like we have for food stamps, AFDC, and Medi-Cal, child support should also have a QC system. And if they violate it, they should be sanctioned.

The paternity establishment, the biggest problem that we find in California is apparently somewhere I read a recent memo that the DA gets $90 or something like that for establishing paternity.

So now the game is, that everybody who comes in, we're going to try to establish paternity, even if paternity is not an issue. In fact, a woman has to fill out all of these forms saying, when did you have intercourse, what way, how, when, and all this sort of stuff. And it's very demeaning.

And everybody has to fill out these forms, even if paternity is not at issue. I think there should be some Federal statute saying that you only get into paternity if paternity is the issue; in that one of the parents denies that they're the parent of the child.

The other recommendation that we have over here is that for the $50 disregard, if you have a time limit of 15 days, if the State does not comply with that, then the State's share of the child support should go to the recipient.

And if they comply with it, then all the recipient gets is $50. But if they don't comply with it, then they will get more. That will send a clear message, and they will do their job like they're required to do.

Thank you very much.

[The statement of Kevin Aslanian follows:]

# CHILD SUPPORT ENFORCEMENT AND PATERNITY ESTABLISHMENT
## From the Perspective of Welfare Recipients

BEFORE

The Subcommittee on Public Assistance
& Unemployment Compensation
House Ways and Means Committee

February 26, 1988

KEVIN M. ASLANIAN, Executive Director
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February 26, 1988

**The Honorable Thomas Downey,** Chairperson
House Subcommittee on Public Assistance
and Unemployment Compensation
House Ways and Means Committee
House of Representatives
Washington, D.C. 20515

Mr. Chairperson and Members:

Thank you for giving me the opportunity to present the concerns of low-income individuals who are consumers in the child support industry.

Coalition of California Welfare Rights Organization (CCWRO) is an organization which represents more than 15 welfare rights organizations throughout the State of California. CCWRO is also a member of the National Welfare Rights Union.

This testimony is the product of concerns that were raised by members of the individual California welfare rights groups and discussed by the state-wide welfare rights groups regarding child support.

Generally, child support enforcement has been viewed from the perspective of providing the district attorneys more tools and more money to collect child support with the expectation that it would result in monthly $50.00 stipends to welfare recipients. This attitude is similar to the Reagan trickle down theory.

Rarely do public officials examine problems that consumers have regarding the enforcement of child support and the establishment of paternity.

The following list constitutes the most frequently aired concerns that our welfare rights members have voiced.

1. Prompt disbursement of the $50.00 child support disregard;

2. Insuring accountability of the district attorney's office to it's clients;

3. Limit the child support payments which will be assigned to county of residence upon application of AFDC;

4. Guarantee accessibility of child support enforcement services to eligible persons by establishing an application process and penalties against the district attorney. if action on the application is not taken in a timely manner;

5. Affording clients fair hearings conducted by the State IV-A agency on issues relating to child support enforcement.

6. Establishing time limits for child sup-

port imposing severe penalties against the district attorney if they violate those time limits;

7. Limit the adversarial approach in establishing paternity to those situations where paternity is contested.

## $50.00 CHILD SUPPORT DISREGARD

Current law provides that in any month that a recipient of AFDC receives a child support payment, the first $50.00 shall be disregarded as income to the AFDC budget.

There are two major problems that we have seen in this system from the perspective of low income families:

1. The $50.00 payment is regularly delayed for months or even years; and,

2. In some cases, the absent noncustodial parent will not maintain current monthly child support payments and then may pay several months worth of payments in one month. Under current law, the needy family is denied the much needed $50.00 payment since the child support payment is deemed late.

### RECOMMENDATION

We would recommend:

(1) That the law be amended to provide that the $50.00 child support disregard shall be paid to the AFDC family within 15 days of receipt of the child support payment by the district attorney. If the time limit is not met, the State's portion of the child support payments shall be given to the AFDC family and the entire amount shall be considered exempt income for the purposes of any and all programs that have a means test; and,

(2) That the first $50.00 disregard shall be given to the family for each and every monthly payment received by the district attorney's office or the recipient, regardless as to whether the payment is "current".

## ACCOUNTABILITY TO AFDC RECIPIENTS

Under current law, the district attorney is not required to submit monthly reports to the recipient regarding the status of the child support payments. In many cases, welfare recipients have no idea of how much child support is being collected or when it is received.

If they knew the amount of child support that was being collected by the district attorney, many AFDC recipients would take a low paying job supplemented by the child support and get off of AFDC. However, most AFDC recipients cannot make such a decision, because they generally do not know when and how much child support was collected.

### RECOMMENDATION

We suggest that the statute provides that the district attorney shall supply monthly or quarterly reports to AFDC recipients specifying the amount child support that was received and the dates that such payments were received.

## ARREARAGES

Under current law, after a parent applies for AFDC, the parent must assign all of the accumulated child support payment arrearage to the state or local welfare agency.

For example, Ms. Jones is owed $10,000 in child support arrearages. She applies for AFDC on January 1, 1987. She receives aid for two months and then goes off of AFDC.

Under current law, in order to be eligible for AFDC, Ms. Jones must assign all rights to the past due child support to the county. The district attorney will then take the absent parent to Court and collect all of the $10,000 and Ms. Jones will not receive one penny of that money.

To say this is unfair is an understatement.

## RECOMMENDATION

We would recommend that an assignment of child support be limited to the identical period that the family received AFDC. The amount of the assignment would be the full amount of the monthly child support payment (less the $50.00 disregard given to the family) multiplied by the number of months that the family received AFDC.

## ACCESSABILITY TO CHILD SUPPORT ENFORCEMENT SERVICES

Under current law, persons eligible for child support services must actively seek assistance from the district attorney. Although the statute provides that the district attorney shall assist persons seeking assistance, there is no process for a person to apply for such assistance and there are no time standards for the district attorney to respond.

People have been known to have waited for weeks, months, and even years before they receive any response from the district attorney Some never get a response from the district attorney.

## RECOMMENDATION

The IV-C agency shall develop an application form that shall be available at all district attorney offices. Any person shall have the right to apply for assistance during all working hours.

The agency shall also develop reasonable time limits for the district attorney to take action on the applications compatible with the time it takes attorneys in private practice to take action on cases regarding to child support enforcement.

The IV-A agency shall conduct fair hearings for any person who is dissatisfied with the services of the district attorney

The agency shall also develop a quality

control system for the IV-C agencies with sanctions for not following federal laws and regulations governing the enforcement of child support laws.

## ESTABLISHMENT OF PATERNITY

Under current law, the district attorney is charged with the duty to establish paternity.

In some States, the district attorney office receives additional funding for establishing paternity. This results in the district attorney trying to establish paternity and requiring AFDC recipients to complete paternity forms by all persons being referred to them for child support collection, *even if paternity is not being contested.* These questions are frequently very personal and embarrassing, e.g., "When and where did you last have sexual intercourse?" "With whom?"

## RECOMMENDATION

We recommend that the district attorney shall not require any applicant or recipient to complete a paternity questionnaire, unless one party denies paternity and paternity is clearly in issue.

Again, thank you for this opportunity to appear before the subcommittee and share the concerns of the low-income families having problems with child support enforcement and establishment of paternity.

Sincerely,

Kevin M. Aslanian

**KEVIN M. ASLANIAN**
Executive Director, CCWRO

Acting Chairman **Downey**. Thank you. Ms. Roberts.

## STATEMENT OF PAULA ROBERTS, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY

Ms. **Roberts**. Thank you. My name is Paula Roberts. I'm a senior staff attorney at the Center for Law and Social Policy and I head the center's child support enforcement project.

We have, for the last 4 years, provided training and technical assistance to State legislators, child support commissions, and attorneys who are trying to assist in the implementation of the 1984 amendments.

Frankly, it has been very discouraging work. At the nearly 4-year mark since the passage of the 1984 amendments, economic child abuse is still the major crime being committed in America. We have not yet really gotten a handle on it.

I think there are three reasons for this. One is something that you cannot directly do very much about: a basic societal attitude that this is somehow not a serious problem, or that there are good reasons why all those people are not paying child support.

Unless we, as a country, take a much more serious view of this problem, then we are not going to create the atmosphere in which it is possible to do something about it.

There are, however, two things that I think that you can do, as Members of Congress, in looking at this issue. The first is, look at the way you structured the 1984 amendments.

In this country family law, which is really what the 1984 amendments are about, has always been a matter of State law and State prerogative. When you Federalize family law—which is what the 1984 amendments quietly tried to do—you will, just of necessity, run into institutions and people who are not used to dealing that way. For example, we saw in many, many States either that it was impossible to get laws passed because legislators balked at the Federal Government telling them what to do, or legislators passed laws and judges simply refused to enforce them. The judge said, "that may be the law, but we will not do it." This continues to be a major problem.

I think part of this recalcitrance is going to go away over time, as State and local institutions get used to dealing with the notion that there is a need for national uniformity in family law, and realize that Congress is serious about creating that uniformity.

At the same time, however, I think you have to take into account that if you want the States to do something, you must be extremely clear about what it is you want them to do, who should do it, when it should be done, and how it should be done.

In other words, what we have as a result of the 1984 amendments, in large part, are 54 variations on a theme. This may be the way to construct lovely symphonies, but it is not the way to make law.

We have ended up with each State adopting a different system of wage withholding; a different system of liens and bonds; a different system of making reports to credit agencies, and so forth. Everybody, at least facially, is doing what the 1984 amendments require. But the results are not uniform.

If you contemplate making additional changes, or revising the changes you have already made, be clear about exactly what it is you want. For example, if you want credit agency reports, say so; don't say, please do it if the amount is *x*, and it is Wednesday. Be very clear about what you want.

The second major issue that you can deal with is the very sorry performance of the Office of Child Support Enforcement in making it clear to the States that Congress was and is serious about child support enforcement.

The Office, rightly to begin with, took the tack that the 1984 amendments were such a major change that the Federal agency role should be to help, massage, cajole, and try, in as friendly a way as possible, to get the States to come along.

I do not have a quarrel with that initial way of dealing with the problem. But I do think 4 years later, when there is such a huge gap between the law as you passed it, and the reality as you have heard it described by nearly every witness here, you have to ask why has no penalty ever been imposed?

Mr. Harris, when he was here the other day, mentioned Pennsylvania. Pennsylvania had until April 1, 1986—that is, almost 2 years ago—to enact laws conforming to the 1984 amendments. As of this day, they have not done so.

There is no factual question that they have not done so. But they have not suffered a single penalty. Instead, they have been sent a notice of intent to disapprove their State plan.

This is a procedure that OCSE cooked up. It is not authorized by law or regulation. They waited until a year, after Pennsylvania was clearly out of compliance and then in June of last year sent them this notice of intent to disapprove.

That triggered a 60-day period in which Pennsylvania could request a hearing. Lo and behold, on August 19—exactly 60 days later—Pennsylvania did so. On October 30, OCSE got around to scheduling a hearing.

That hearing was scheduled for the 15th of January. It was then postponed to the 15th of February, the 10th of March, and is now scheduled for some time in April.

In other words, even the clearest and most obvious violations of the law that you crafted have not been addressed.

We have found, in our investigations, that the problem is even deeper. And I think Mr. Delfico from the GAO confirmed this the other day.

What OCSE has done is take the State's word for it that they are doing things that they are supposed to be doing. For example, we did a quick round of phone calls this week on whether States had sent out the required annual notice to AFDC recipients. As Mr. Aslanian explained this notice is very important to AFDC recipients.

The OCSE regional officer said, "Well, the State says in their plan, they did it." We then asked, whether the OCSE officer ask the State for a copy of the notice they are sending out in order to verify that, in fact, they are doing so?

They did not. Not one single regional office ever asked, just to check. We got two phone calls back, later in the week. A representative from region 6 said they had, in fact, gone out and asked for this information, and discovered that Texas, a rather large State, has been telling OCSE for 3 years that it sends out this notice, but has not done so. Another regional office called us back to inform us that they had, in fact, asked and everyone of their States had produced a form notice for them.

But this kind of routine checking to see whether the information OCSE is being given is correct, is just not done. As a result, you see the kinds of problems people have talked about at these hearings.

I think another problem with OCSE is its placement. This is an issue you might think about. By putting it in the Office of Family Assistance, with the welfare department, the message comes out that child support enforcement is a way to reimburse the State's welfare costs.

Now, that may be a perfectly legitimate goal of child support enforcement. But it certainly shouldn't be its only goal, nor its primary goal. Yet the message constantly delivered to the States is, "keep it cheap; collect as much as you can for AFDC; and do whatever else you can."

The result of that, in four areas in particular, has been catastrophic. First is staffing standards. As a number of people have alluded to, IV-D caseworkers are handling anywhere from hundreds to thousands of cases.

There is a requirement in the current Federal law, in section 652(a) of the statute, that OCSE issue regulations to make sure that States have effective programs. Under that law, OCSE could clearly issue staffing standards. They haven't done so.

There is another part of the statute that says they should be issuing staffing standards for State IV-D agencies. Again, they have not done so. They have simply issued a general regulation saying, "have sufficient staff to operate effective programs."

Obviously, this approach is not working. Yet OCSE refuses to do anything about it. In fact, as Mr. Harris testified the other day, he thinks that's a State responsibility. However, we know that the States have not taken that responsibility.

The second area where OCSE has not provided leadership is in paternity. One of the things that we hear from people constantly is that paternity is not done in contested cases because the local jurisdiction has run out of money to pay for blood test.

That is, the local jurisdiction's budget for the period, is only enough to do 50 HLA tests. If you are case 51, you have to wait until the next fiscal year to get your paternity case done.

That makes absolutely no sense. It is something that clearly should be picked up in an audit and never is.

Its effect on people, however, is very real. If the woman is on AFDC, it means she may never get paternity established. If she is a non-AFDC recipient, what many States have tried to do is make her pay the cost up front. Now this woman is not going to be applying for IV-D services, frankly, if she has the money to pay these costs.

And yet the way of dealing with her problem, within the IV-D context, for those agencies that run out of money, is to say, you pay us the money and we'll do the job.

Moreover, in many States—in fact over half the States at the moment—there is also a requirement that counsel be provided to indigent fathers in contested paternity cases. OCSE has issued regulations saying that is not a Federally reimbursable cost. Again the States and the localities are having to pick up that cost, and this makes them reluctant to do contested paternities.

A third area that is part of the paternity problem is that many places still do not have simple civil procedures to establish paternity in noncontested cases. As Kevin Aslanian suggested, you make people run through the contested case hoop, even when everybody agrees who the parents are.

In H.R. 1720, you included a provision which I hope will survive, to require that States have simple civil processes for determining paternity in noncontested cases.

Massachusetts law is probably a model for this. They have a simple procedure in which, if both parents agree, they appear in front of a notary public, sign a sworn statement, and take the statement down to the birth records office.

It couldn't be much easier than that. You'd probably get a lot of paternities done if such a law were universal.

In summary on this point, someone needs to ask why it is that OCSE is not being more active in encouraging States to put their money into paternity processing.

I think also, in the short run, you might consider federalizing the costs of blood tests for, say, 5 years. There is such a huge backlog of cases. Congress could say this is so serious a problem and the consequences of not doing something about it are so serious, we are willing to take it on and do it. Let's pay those costs and get this caseload moving.

I think if you don't do that, what you will find is, no matter what timeframes you set, no matter what goals you establish, they probably won't be met, and we'll back here 4 years from now, trying to figure out the answer once again.

The other area that I would urge you to think about is the $50 disregard. It is the greatest incentive to AFDC mothers to participate in this system and to cooperate because they get something back from it; their children benefit.

It is also an incentive for the payors. These are usually the fathers but sometimes are the mothers. At least knowing that some of the money is going to go to help their children is a tremendous incentive to participate in the system, and, sometimes, to do so voluntarily.

I would suggest that rather than talking about cutting back and narrowing that disregard, we talk about expanding it. We should recognize its value, particularly for very low income families who are not going to move off of AFDC simply by virtue of collecting child support.

The payors in those families don't have the resources to pay that kind of money. But child support in conjunction with a job, or child support in conjunction with an AFDC grant, might get the family at least a lot closer to the poverty level than it now is; and that would do a whole lot to benefit children.

I think a first step in that process is to raise the disregard to $100 for everyone. Then, in those States where there is a huge gap between a State's AFDC payment level and its standard of need, we should require that any money in excess of the $50—or the increase to $100—be passed on to the family at least until we fill that gap.

It is really unconscionable that we have States setting what they say is the minimal standard of decency in which children should be raised, and then paying 40 percent of that amount. Increasing the disregard is one way society could make a commitment to those children that we do not intend forever to leave them in poverty. Moreover, this approach strengthens families by using the resources of the absent parent to reduce poverty.

Thank you for this opportunity. I appreciate it.

[The statement of Ms. Roberts follows:]

STATEMENT OF PAULA ROBERTS, SENIOR STAFF ATTORNEY, CENTER FOR LAW AND SOCIAL POLICY

Good morning and thank you for allowing me to testify at these hearings. I am Paula Roberts, and I am the Senior Staff Attorney at the Center for Law and Social Policy (CLASP), which is located here in Washington, D.C. CLASP has a special interest in the issues addressed at this hearing because of its extensive activities to improve child support enforcement services for low-income families. Since 1984, CLASP has run a special Project on Child Support, focusing particularly on methods of improving the system authorized by Title IV-D of the Social Security Act. In the course of this work, CLASP staff have produced over a dozen law review articles on various aspects of child support enforcement, counselled several state child support commissions; drafted model state laws; litigated cases and provided training and technical assistance to lawyers working on IV-D child support issues in over 30 states.

Frankly, this work has been very discouraging. Despite the great promise held out by the 1984 amendments to Title IV-D, significant progress in obtaining child support for needy families has not been achieved. The 1985 Census Bureau figures bear this out: 39 percent of women living with children under 21 whose fathers were absent from the home had no child support order. This figure is not significantly different than the 1983 figure (42%). Of those who had orders, one quarter received nothing. Again this is about the same as was true in 1983. And the median award actually decreased in amount during this period although male wages rose. Thus, despite the 1984 law, something is still very wrong.

On reflection, we believe there are two primary reasons for this. First, family law has historically been seen as a matter of local prerogative. Not only are there 54 different state systems operating, but frequently within states there are diverse systems in place. Courts, judges, bar associations and state legislators are used to this diversity: some even have a stake in its continuation. Thus, when Congress requires the states to change their laws in order to achieve more national uniformity, there is a predictable amount of balking. The fact is that many states failed to enact laws or change procedures within the time frames required by the 1984 amendments. Others made the changes on paper but never implemented them, In all cases, the results were 54 different variations on the basic concept, not the uniformity Congress envisioned.

Some of the recalcitrance may ease with time. But one lesson is apparent: if Congress wants additional change it must be very clear and explicit about what it wants. If, as was included in the Child Support part of H.R. 1720, for example, Congress wants automatic wage withholding, periodic updating of orders and mandatory guidelines, it must be unequivocal about this. The law itself must say who should do it and how it should be done and set a date certain by which it must be done. Otherwise there will be a lot of delay followed by 54 different forms of these innovations and this will not help the situation.

However, this step alone will not be enough. There is a second problem that has to be faced: the failure of the Office of Child Support Enforcement (OCSE) to either provide leadership to the states on several critical issues or to move swiftly against states which fail to comply with federal law. Let me give you an example.

The 1984 amendments required Pennsylvania to enact expedited processes for support enforcement and a state income tax intercept program to recoup delinquent support. A generous reading of the 1984 law gave Pennsylvania until April of 1986 to make these changes. As of February 1988, they have not done so. They have suffered no penalty for this failure: they still receive their full Title VI-D funding and their full AFDC funding. And this is not an isolated example.

Part of OCSE's failure is understandable. They would rather cajole the states into compliance than have an outright confrontation. However, much of OCSE's failure goes beyond this. In what can only be characterized as a "penny wise, pound foolish" approach, OCSE has sent only one clear and consistent message to the states: child support is "a program which exists to recoup AFDC expenses and ease the burden on the state and federal fisc.[1] At the state level this translates into (1) keep the costs down; (2) do the easy cases first, and (3) don't do any case that isn't obviously cost effective. In the real world, this attitude has led to disastrous consequences.

1. There are no staffing standards for state IV-D programs. As a result, caseworkers and investigators frequently have caseloads in the thousands. Service then varies from negligible to non-existent.

Under 42 U.S.C. §652(a), the Office of Child Support Enforcement (OCSE) is responsible for establishing standards of operation for state IV-D agencies "as he determines to be necessary to assure that such programs will be effective." The Secretary is also charged with establishing minimum organizational and staffing requirements for state IV-D agencies. Id. §652(b). However, OCSE has gone no further than to say that each state must have "sufficient staff" to carry out its duties and to operate an effective program. 45 CFR §§303.2(b) and 303.20(c) and (f).

Operating without federal guidelines on the acceptable volume of cases that can be handled effectively by a child support enforcement caseworker, state IV-D agencies keep their costs down by keeping caseloads high. For example, according to OCSE's own data, caseworkers in Los Angeles County, California struggle under the burden of 1200 to 1500 cases each. See OCSE Report on the Child Support Enforcement Program in L.A. County, p. 7 (May 1987). Caseworkers in Georgia bear responsibility for similar caseloads. In judicial circuits where the local district attorney's office is responsible for all case functions, the average caseload per worker is 1749. In circuits where there is a child support recovery office, the average caseload is 1337. (Georgia Office of Planning and Budget, Management Review of the Organizational Placement of Child Support Recovery Functions, Exhibit 4). In Virginia, where caseworkers (who are called investigators) are responsible for monitoring payments and bringing prompt enforcement actions, they carry caseloads of 600-700.

OCSE's failure to analyze current caseloads and develop estimates of the number of cases that can be effectively and efficiently handled in light of a number or variables (including the capacities of a state's IV-D computer system), detrimentally affects staff morale. It also guarantees that necessary case monitoring and enforcement tasks will not be performed in a timely manner, if at all. The result is that the improvements envisioned under the 1984 law are not achieved. For example, due to the volume of cases to be examined, caseworkers are unable to identify arrearages triggering mandatory wage withholding on the day such an arrearage accrues as is required by 42 USC §666(b). In the words of one Virginia investigator, the size of her caseload inevitably means she can't reach cases on that thirtieth day. She may not, in fact, reach some cases at all as she struggles simply to respond to requests for enforcement action made by custodial parents who call her for assistance. These phone calls become her method of selecting cases for action because a more systematic and comprehensive delinquency monitoring method would be a Sisyphean undertaking.

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[1] This phrase is quoted from a brief filed by Secretary Bowen in the case of Brown v. Ledbettor, No. 87-8345 pending in the 11th Circuit. Brown is typical of the nearly one dozen cases filed in recent years by low-income mothers trying to get state agencies to provide them with paternity and child support services. The Brown plaintiffs joined the federal defendant because of OCSE's failure to require Georgia to run an even minimally adequate system. In challenging the mother's right to complain, the Secretary stated that there is "virtually nothing the federal government can do to assure that participating states meet the detailed and specific statutory and regulatory requirements established for Title IV-D agencies." (Brief of Federal Appellee at 10.) Moreover, to give AFDC recipients the full range of "services their individual cases might warrant would bankrupt IV-D agencies across the country." (Id. at 18.) Indeed, what the federal agency suggests to Mrs. Brown, and other low-income mothers in her situation is that they seek private counsel to pursue their claims. (Id. at 43).

Moreover, when pursuit of delinquent payors assumes top priority in a huge caseload, other services like parent locate and paternity establishment are neglected. Moreover, reviewing casefiles to see if an upward modification in support is warranted is simply impossible. Families then continue to receive inadequate support payments, and the state and federal governments receive less reimbursement than might otherwise be possible.

Finally, the harried and chaotic atmosphere which characterizes support enforcement offices due to the enormous workload and lack of appropriate training and technical assistance often leads to high turnover among caseworkers. This turnover compounds enforcement delays as positions are filled with newcomers who must be trained.

In short, HHS's failure to evaluate states' staffing needs in light of current caseloads and to demand compliance with staffing standards clearly undermines the 1984 Child Support Enforcement Amendments' potential for success. The continuation of the status quo will only translate into exasperation for caseworkers, disappointing collection figures for state IV-D programs and continued suffering for custodial parents and children who need reliable child support collection and enforcement services to survive economically.

2. Wage withholding upon the accumulation of 30 days arrears in support payments has not become a reality. At least in part, this is due to the lack of aggressive enforcement of the implementation of the law by OCSE.

The 1984 amendments require states to make wage withholding available in all support cases when arrearages occur, 42 U.S.C. §666(a)(8). If the case is being handled by the IV-D system, withholding must occur if the non-custodian is 30 days and arrears and must be triggered without the necessity of returning to court. 42 U.S.C. §666(b).

In its 11th Annual Report to Congress, OCSE indicates that by October 1, 1986 only 16 states had implemented this law. Given that nearly that number of states (13) had wage withholding laws in effect prior to the enactment of the 1984 amendments, this figure is truly shocking. Yet, no state has been sanctioned for failure to implement the law.

Moreover, even when the laws are in place, the process is anything but swift. In an intrastate case, a custodial parent must wait 30 days for arrears to accumulate. A notice is then sent to the noncustodial parent. The custodial parent must then wait for the noncustodial to respond. If the noncustodian responds and asks for a hearing, one must be held and a decision must be rendered within 45 days. After a decision is made, the obligor's employer must be notified to commence withholding and send the money to the IV-D agency which then passes it on to the custodial parent. At best, the process takes three to four months. Surely this is not what Congress envisioned in 1984, and OCSE is quite aware of this.

In _interstate_ cases, things are worse. Frequently, states give very low priority to collecting support for out-of-state residents and may simply ignore the request. To date, OCSE has done almost nothing to deal with this problem. Over a year ago it issued proposed regulations to address the interstate problem. Final regulations have never appeared.

3. _Establishment of paternity remains a major problem. One of the chief causes of this is insufficient funds to pay for blood tests. OCSE has likewise done little to address this problem._

The Census Bureau data tells us that paternity has been established in only 25 percent of the cases where a child has been born outside marriage. The same data tells us that once paternity has been established, it is just as likely that support will be paid as in the case of a child born to a married couple. Thus, in the long run establishing paternity makes fiscal sense.

Initially, however, this is an expensive process in contested cases. This is primarily due to the cost of blood tests and of litigation. As a result, many states confine paternity establishment to uncontested cases. When they do contested cases, they limit the number by limiting the available funds. We have been contacted by jurisdictions as diverse as Oregon, Georgia and New Jersey, when AFDC mothers cannot get paternity established because the state has run out of blood test money for the year. Obviously, this should not be happening.

The situation for teen parents is particularly extreme. Remember, the very dismal Census Bureau data apply only to women over age 18 who have children. They do _not_ address the problem of younger mothers. Yet, according to data from the National Center for Health Statistics in 1985 there were 167,789 births to teenage mothers, 71% were unmarried. In that same year, there were 10,220 births to teen mothers under the age of 15. Of those mothers, 92% were unmarried. In light of the above statistics, it becomes clear that teenage mothers desperately need services to establish paternity. Yet, due to the emphasis by OCSE on immediate fiscal returns, this is the group least likely to get services because the fathers are assumed to be youngsters who have no income. The fact that they will eventually be wage earners able to support their children is not considered important because of the short run focus of OCSE on immediate fiscal gain.

4. _The effect of these failures on all custodial parents is harsh. It is particularly harsh, however, for AFDC custodians who have thereby been cheated out of the opportunity to supplement their meager AFDC grant with a $50 disregard and who, in many cases, have not received notice about child support collected on their behalf._

Since 1984, the first $50 of support collected periodically on behalf of an AFDC family should be distributed to that family. 42 U.S.C. §657(b); 45 CFR 302.51(b)(1). This $50 payment is commonly referred to as the "child support disregard" because it is not counted as income to the family for purposes of determining AFDC eligibility or calculation of monthly benefits, 42 U.S.C. §602(a)(8)(A)(vi).

It is self-evident that a custodian cannot obtain this benefit until paternity is established and a support order obtained. The failures detailed above frequently make these steps impossible. Even if a support award is collected, however, the custodian will not necessarily receive the disregard.

Because it diminishes their reimbursement for AFDC paid out, the state IV-D agencies do not like the $50 disregard and OCSE has done its best to limit its availability. AFDC mothers in several states have had to go to court to get money owed to them, but denied under OCSE regulations and/or state practices.[2]

To add insult to injury, the HHS Inspector General has recommended that the disregard be eliminated. (See Office of the Inspector General, Semiannual Report to the Congress, April 1, 1987-September 30, 1987, pp. 55-56.) Based on a limited review in five states (New York, Georgia, Missouri, Minnesota, and Washington) and interviews with state IV-D agency personnel who clearly lacked enthusiasm for the work required to collect, record and distribute disregard payments, Inspector General Kusserow concluded that the availability of the $50 disregard did not serve as an incentive to AFDC parents to provide information to state IV-D agencies in order to improve the likelihood of collection. Yet, as pointed out to the Inspector General by Family Support Administration Chief Wayne Stanton in a memorandum dated February 13, 1987, AFDC recipients may not be aware that they are entitled to disregard payments because of state agencies' failure to engage in appropriate outreach efforts or to distribute basic information describing a recipient's entitlement to the disregard.

Indeed, when AFDC recipients do know about the disregard, they support it enthusiastically. This $50 payment represents a significant fraction of an AFDC family's total income. Due to inadequate benefit levels across the county, families receiving AFDC live well below the poverty line. According to HHS, the average AFDC grant per family is only $351. If this Congress wants to strengthen the link between improved child support enforcement and enhanced child welfare, it should increase the disregard, not withdraw this vital income supplement that makes at least an incremental improvement in a poor family's standard of living.

A related problem arises because many states have not given AFDC custodians the notice of support collections required by the 1984 amendments, 42 U.S.C. §654(5) and 45 C.F.R. §302.54.

Although the states have been required to send this notice since October 1, 1985, several, including Georgia, Virginia, Texas, New Jersey and the District of Columbia, have never done so. AFDC custodial parents in these areas (and possibly in others[3]) are thereby deprived of their only regular source of information about the payment histories in their cases. This, in turn, fosters their dependence on AFDC, because they lack vital information about a potential source of income which could supplement wages and allow them to leave AFDC behind.

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[2]. See, e.g., Wilcox v. Petit, 649 F. Supp. 685 (D. Me. 1986); Golden v. Illinois Dept. of Public Aid, No. 3-86-0234, App. Ct. of Ill. 1986; Van Scoter v. Bowen, Civ. No. C86-1568 (W.D. Wash. filed Oct. 1, 1986).

[3]. In preparation for this testimony, the Center staff spoke with a number of regional OCSE offices to see whether they were verifying the state's assertion that they were sending notices. OCSE's Region V (which includes Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin), has never sought sample notices or other documents verifying states' annual notice compliance. They have simply taken the states' word for it. Such reliance is misguided as was seen in the recent experience of OCSE Region VI (which includes Texas, Arkansas, Louisiana, Oklahoma and New Mexico). Region VI personnel had also relied on state plan assurances as evidence of compliance but recently discovered that Texas had not, in fact, sent out the annual notices. Region VI staff now plan to verify the compliance of the other states.

In light of all this, what should you do? In the long run, we believe that you will have to devise a completely different approach. The current child support system fails nearly everyone and, given our federal system, and the state's historical claim to the province of family law, it probably can't ever be made to work efficiently or effectively. Family allowances would be a much better alternative.

Noting, however, that there is not yet political consensus for such a drastic change, we would recommend the following steps be taken immediately:

1. Require OCSE to issue, by a date certain, minimal staffing standards for each aspect of the IV-D system, and make failure by the states to meet these standards *prima facie* non-compliance with its obligations under 42 U.S.C. §654 and 603(h).

2. Enact legislation (separately if the welfare reform bill bogs down) to require each state on a date certain to issue numerical child support guidelines; establish a schedule for updating all old orders; and impose automatic income withholding. Make failure to do so subject to automatic penalty under 42 U.S.C. §654 and 603(h).

3. Require HHS to immediately impose a penalty on states which have not yet sent their annual notice of collections to AFDC recipients. Then amend law to require that a notice be issued every time a collection is made.

4. Improve the disregard itself by increasing it to $100 and then requiring all states which do not make AFDC payments equal to their standard of need to pass on any additional monthly support when doing so would "fill the gap" between the payment standard and the need standard.

5. Increase funding for paternity services in general and blood tests in particular. Allow federal participation in the costs of providing counsel to indigent paternity defendants and amend the law to clarify that paternity should be established without regard to the short term fiscal loss occasioned by doing so.

Thank you for this opportunity. I would be happy to answer any questions you might have.

Acting Chairman DOWNEY. Thank you. Ms. Samuels.

## STATEMENT OF GLORIA SAMUELS, ATTORNEY, LEGAL SERVICES OF UPPER EAST TENNESSEE, INC.

Ms. SAMUELS. I am Gloria Samuels, an attorney with Legal Services of Upper East Tennessee, located in Johnson City, Tenn., in the mountains of upper east Tennessee.

I am here on behalf of some clients of mine; namely, one Cheryl Merritt, and who was involved in litigation and settlement of a suit against the State of Tennessee, Department of Human Services, for its failure to operate an efficient and effective State child support agency in our First Judicial District of Upper East Tennessee.

Prior to 1984 welfare recipients in Tennessee didn't give a hoot about child support collection. They never knew about it. They never saw any results from it.

After the passage of the DEFRA act in 1984, the first $50 was afforded to them as a bonus, as an incentive payment. In Tennessee, incidentally, our payment turnaround time is 20 days. And I am very proud of the State for accomplishing this.

They established a whole new computer system to do this, too.

Acting Chairman DOWNEY. Ten days faster than the Ohio system for its lottery.

Ms. SAMUELS. It took them 2 years to establish the system. Sorry about that.

I also have to tell you that it was not done voluntarily, but as a result of the suit.

In 1984, with the passage of DEFRA, the bonus became a reality. And although information is very slow in funneling from laws to people, eventually, AFDC recipients began to realize that they should be receiving this money.

And the system proceeded to develop. And welfare recipients began to be aware of their right to this money, and the child support suit, and the fact that the State began to funnel the money back to them quickly made them more aware of it, and they began to receive it.

Incidentally, in Tennessee, a mother and one child receives a grant of $122 a month. The consolidated need standard in Tennessee is $272. The State funds the welfare grant at 45 percent of the consolidated needs.

In 1986, Tennessee passed the Right to Work and Child Support Act, which allows an individual to fill the gap between the grant and the consolidated need standard.

At that point, many individuals became quite interested in child support enforcement, because it made it more money available to them, and made them realize that they could possibly improve their standard of living.

Our suit was filed because we had received numerous complaints about the enforcement of child support. One client, Cheryl Merritt, complained that her husband stopped paying child support when she started receiving welfare help.

It took the local child support agency over a year to enforce an already existing order, although the ex-husband worked in the same community in which he lived, and he worked at a well known local factory.

When we started our discovery, we learned that not a single wage assignment had been filed in the almost 2-year period since Tennessee implemented the child support amendments in 1984.

They implemented them as of October 1, 1985, and mandatory wage assignment was permissible.

Files in the child support agency have been lost. In fact, the State became aware of how bad the file situation was after we filed suit and found that the local contract agency could not produce the files of the three named plaintiffs in our suit.

We discovered that monitoring the child support payments was antiquated in most of Tennessee's 95 counties, except possibly in the larger cities.

In Tennessee, a child support person picks up a book and gets in her car, and goes physically to a court, where she thumbs through the court clerk's payments, and checks them off, to make sure that everything has been paid or not paid.

She then transports the book back to the IV-D agency, hopefully to take further steps to enforce the court order.

In our four-county region of upper east Tennessee, there are 14 domestic relations courts, two of which are 45 miles away from the local agency. And the roads are not easy; they're mountainous. I don't have to tell you the time involved.

We computed one time how long it would take a person to do this monitoring. We figured it took one staff person a week to do the monitoring alone in this agency.

The lawsuit revealed to the State, as well as to us, that the State had no reporting mechanisms which would advise them as to whether child support agencies were in compliance with the Federal regulations.

In fact, the State realized that they were not getting a good picture of what the local agencies were doing at all.

You will be happy to know that we settled this lawsuit. And in the settlement, we included better training for the staff, including the attorneys; a detailed corrective action plan for our particular district; and as a byproduct, the State amended its contracts with the local IV-D agencies to establish greater accountability by the local agency to the State, which incidentally, includes oversight by the State.

They go out every 6 months, pull files, review them, and there is also the possibility of sanctions. It was not an easy package for them to sell the DA's, but they did it.

We have seen a lot of improvement in our local agency, but there is a limit to what the staff can do, while the client number is climbing steadily.

In the actual testimony, we cite the 165-percent increase in the last 2 years in the number of clients that this agency is supposed to handle. We have one attorney in this agency and five staff people.

Each month the number keeps going up. And in Tennessee, the usual caseload for attorney is between 4,000 and 7,000 cases. In our four-county judicial district, the current number of AFDC and non-AFDC open cases is 6,400, and they still have only one attorney to handle this caseload.

Because of financial problems or whatever, the States are unwilling to establish a realistic staff-to-client ratio. The Federal regulations require, "sufficient staff," however, there are no guidelines or requirements to tell people what "sufficient staff" means.

Without criteria, or without specific numbers, this particular regulation is meaningless.

We advocate establishment of a specific client-staff ratio, minimal staffing guidelines, so that these overwhelming caseloads per attorney can be modified.

I also want to speak about computerization of child support collection. As I described in our particular case, monitoring is still a paper transfer in Tennessee.

There has been an application for the 90-percent funding by the State agency in Tennessee. They have fulfilled the requirements. They have gone to different States, and they have reviewed their computer system. They have written grant proposals.

However, even after all of this has been done, they find that there is no possibility of transference of any system from any other State to the State of Tennessee, because there is no system in the United States, no computer system, that has been certified by the Office of Child Support Enforcement, for transference.

So although Tennessee has really and truly attempted to improve its situation, it is stymied. It is totally stopped and suspended because a Federal agency has failed to certify a computer system for them to use as a transfer base.

I have one other thing I would like to speak to. One problem we see is the failure of any consideration given to attorneys who practice child support enforcement.

In our local area, a DA who is hired to do child support is on the low end of the totem pole. He is given a promise: Buddy, you practice child support enforcement for a year. We will have an opening, and you will become part of the criminal branch of the district attorney's office.

Consequently, even if this person works hard and works thoroughly and learns a lot, he still cannot possibly develop an expertise in this complicated field.

It is an ephemeral desire to see child support enforcement become a field of law that is given as much class as criminal enforcement or anything else. Somehow or other, domestic relations has always been at the bottom of the heap.

We need to develop this, because the legal problems in this area are complex, and because this particular issue, child support enforcement, is an important function for our society, and should be given the professional recognition it deserves.

Thank you.

[The statement of Ms. Samuels follows:]

## STATEMENT OF LEGAL SERVICES OF UPPER EAST TENNESSEE, INC.

I am Gloria Samuels, staff attorney with Legal Services of Upper East Tennessee. We provide civil legal services to indigent clients in Johnson City and the twelve surrounding rural counties. Our area encompasses the mountainous regions of upper East Tennessee. I am here to testify because of our experience recently with settlement of a federal court class action lawsuit in which we alleged failure of the state agency in Tennessee to operate an effective, efficient child support program in one four county Judicial District within our service area. I am appearing in behalf of my clients, Cheryl Merritt and Wilma Oxendine.

I have practiced law for over 10 years and have had primarily a domestic relations caseload. My co-counsel in our class action lawsuit is Mary Mastin, who is also with Legal Services of Upper East Tennessee. Ms. Mastin has also had an extensive domestic relations practice and was a IV-D prosecuting attorney in Florida in 1975 and 1976 at the inception of the child support program.

Before 1984, AFDC recipients rarely were aware of whether or not child support was being collected for them since all child support collected was assigned to the state. This changed in 1984 with the passage of the Deficit Reduction Act, which required that the first $50 of child support collected each month be returned to the AFDC recipient. In October of 1986, Tennessee passed legislation titled "Right to Work and Child Support" which permitted AFDC recipients to use child support to fill the gap between the welfare grant and the state's standard of need. The $50 "bonus" is excluded from the "fill the gap" amount. As an example, a mother and child in Tennessee receive a welfare grant of $122 per month. The consolidated need standard for this size of family is $272. Consequently, a person could receive $200 per month in child support and be allowed to keep the entire amount; $50 being used as the "bonus," and the remainder, $150, being used to fill the gap between the welfare grant and the consolidated need standard. In Tennessee, welfare recipients receive only 45% of the consolidated need standard established by the State each year.

In 1985 and 1986, we became aware through clients' complaints that child support collections were not being enforced in the First Judicial District in Tennessee. In our initial negotiations with the Department of Human Services (which is the state agency designated to run the IV-D program), we emphasized the need for increased staffing and also, the failure of the IV-D agency to fulfill the federal regulations regarding establishment or enforcement of support. Because we were unable to reach a resolution of the problem, we filed suit in September, 1986, claiming that the Department of Human Services in Tennessee had failed to establish an effective efficient program for enforcement of child support in the First Judicial District in Tennessee which involves four rural counties. We alleged failure of the local agency to follow federal regulations requiring assignment of wages, monitoring of payments, as well as certain other violations. Although we initially alleged a failure to comply with the federal regulations requiring sufficient staffing to fulfill child support enforcement requirements, discovery in the lawsuit revealed so many other problems with the local agency which the State wanted to be corrected that we were able to negotiate a settlement which we believe will accomplish much for our clients but without resolution of the staffing issue which would have been very difficult to prove and which the State was unwilling to settle without federal funds or guidelines.

Intensive discovery had revealed that client files in the local agency were not well maintained; that no assignment of wages had been filed even though mandated by the federal Child Support Amendments two years earlier; and that monitoring was not being performed according to federal regulations. When the state agency became aware of these failures and realized that they had no reporting mechanisms which would advise them as to whether local contract agencies were complying with federal regulations, we began to discuss settlement. The state agency took steps to develop greater accountability of the local contract agencies to the state agency. In April of 1987, the state agency modified the contracts signed by the contract agencies (in Tennessee, usually, the District Attorneys' offices) establishing a greater degree of accountability and oversight to the state. Modifications occurred in the state's methods of recordkeeping to provide them with more information about the number of assignments done in each district; the number of cases instituted to establish support; and generally, to produce more revealing statistics about what each agency was doing. In our own district, the consent decree includes a corrective action plan requiring certain procedures on the part of the state to improve the enforcement activities of the district attorney's office.

Although there has been much improvement in the First Judicial District of Tennessee in recordkeeping, in enforcing and establishing support, and paternity actions, there still is a limit on what the agency can do. This limit occurs because of the numbers of clients needing services and the small number of staff. Even acting with the greatest degree of accuracy, speed, determination, and good will toward their clients, the staff cannot take care of all the requests for service. By law, the IV-D agency must act to enforce child support for every AFDC recipient and also for every person who applies for their services. In the quarter ending December, 1985, the local agency had 2,959 AFDC cases and 967 non-AFDC cases which required child support enforcement in our four county area. There was only one attorney assigned to handle this entire caseload. By the end of 1986, the number had risen to 3,502 AFDC cases and 1,547 non-AFDC cases. There have been steady increases in the size of the IV-D caseload in our district. The most recent statistics (December, 1987) show that the agency currently has 4,297 AFDC clients and 2,166 non-AFDC clients--an increase of 165% in total clients in two years. During this entire period of time, the number of staff in the office has remained at six, with still the single attorney.

The IV-D agency must by federal regulation provide the following services: review the court files every 30 days to ascertain whether child support payments have been made, and if there has been a failure to pay, initiate action to enforce support. The IV-D agency must have an address for the absent parent or no action can be taken to enforce support. Assignment of wages can only occur if the agency is aware of the work address of the absent parent. The local child support agency is charged with enforcing interstate support as well and must act on petitions from other states. They are also charged with establishing paternities which may result in jury trials and long delays, even with the HLA blood tests if the putative parent denies his paternity. Even though priorities are established in our local agency, without sufficient staff to review the applications, place them in the proper priorities, establish support, and monitor the court records, clients still have to wait long periods of time for action to be taken.

Unless and until the federal government mandates minimum staff standards, the staff will remain at its present level, falling further and further behind as more and more persons ask for help in child support enforcement and establishment. Unless the federal government mandates minimum standards for staffing instead of the present wording in the federal regulation on staffing [see C.F.R. §§303.20(b) and (c)], there are limits in how much improvement in child support enforcement will occur. Our child support agency is one that has been rehabilitated. Yet, as an attorney interviewing clients throughout the community, I still find many individuals whose child support is not being enforced. There are limits to what a staff can do.

The state will obey any staffing guidelines established by the federal government. With increased staffing, a greater number of people can be helped, which, in turn, will alleviate the burden on the state for maintenance of indigents. An investment in additional staff will produce bonuses in terms of people helped and less need for governmental provision of services, since a greater number of families would become self-supporting.

Child support enforcement requires participation and cooperation from numerous agencies. Court clerks and the state fiscal unit have to coordinate maintenance of records of payments for proper distribution. The local IV-D agency must coordinate monitoring of child support payments with the court clerks' offices. Location of absent parents involves not only the state and federal parent locator services, but also optimally should include computerized transmittal of information directly to the local IV-D agency from such various state or federal agencies as: the state Departments of Employment Security and of Motor Vehicle Registration, the Social Security Administration, and the IRS. Local IV-D staff have informed us that, at the minimum, a period of six months elapses between the time a request is sent to the state parent locator and the results are obtained through the national Social Security network. Faster results could occur if the local IV-D agency had direct access to the federal parent locator instead of having to go through the state locator service first and also, if other agencies' information was available.

In Tennessee, there is no computer connection between the office of the court clerk and the child support agency. Monitoring of child support payments is still done by carrying books in which payment records for clients are logged to the local court and reviewing the books in the courthouse to ascertain if payments are being made. As you can imagine, this is an extremely time-consuming task. In upper East Tennessee, some of these counties are very far from the IV-D office--in one instance, 45 miles over mountainous roads. It can take one staff person almost an entire day to be able to complete the task of physically monitoring child support payments in one county. In our four county region, there are 14 different domestic relations courts through which child support payments are made and which must be monitored. We estimate that in the local agency this cumbersome and antiquated process requires one staff person's entire time for at least one week out of each month.

During our settlement discussions in the course of the lawsuit, we were excited to learn that the state had applied for 90% funding for computerization of its child support enforcement program. We were told that the State had examined certain systems of other states and selected two which they thought capable of transfer to Tennessee. Unfortunately, we found that no system examined by the State of Tennessee had been certified by the federal government and that no transfers could be effected until there was a certified system. We are very concerned about the federal government not authorizing the transfer of one system to other states. Until there is a certified computer system, the entire development of 90% funding is stymied and at risk. A great deal of state time and effort went into researching the availability of different systems throughout other states. All this effort is now "in suspense" until the federal government certifies one computer system for child support management.

What are the solutions for better child support enforcement? I have discussed the need for federally mandated staffing levels and for better computer systems, including improvement in the connection between the various agencies participating in child support collection.

In addition, we believe there is a problem with the pervasive use of contracts with local district attorneys for child support enforcement. As my co-counsel Ms. Mastin can say from experience, district attorneys frequently use this position as an entry level position. The person who is performing this function then moves on to what he/she really wishes to do which is to work in the criminal side. Often an inexperienced attorney will be hired as a prosecutor to be placed initially in child support enforcement with the promise that after a certain period of time, they can move on to the felony division. There are very few district attorneys who have established a career position for child support enforcement. We believe that if enforcement were kept within the agency responsible for the child support program, there may be more likelihood that an individual attorney would maintain the position for a long enough period of time to develop an expertise in this very technically difficult area. We are not necessarily saying that child support enforcement should not be contracted out by state agencies, but only that there needs to be development of a career track for child support enforcement attorneys. This is an important function for our society and should be given the professional recognition it deserves.

Respectfully submitted,

Gloria Samuels

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Acting Chairman DOWNEY. I want to thank the three members of this panel. You have given us a lot to think about.

I suggested yesterday to Mr. Harris that he develop guidelines for us to give the States a report card. Maybe we will give him one as well.

After what you have said, it does not appear as though the agency would get a passing grade.

I am intrigued by what you said, Ms. Roberts, about the idea that for the next 5 years the Federal Government pay for the resolution of paternity. That is an interesting idea. I think there might be more that we want to do.

The point that you made, Ms. Samuels, about the data base not being available, or the computer system not being assigned, is an inexcusable delay that we will try and do something about.

Yesterday I talked with Senator Moynihan, who is my Senate counterpart on this matter; told him about our desire to publicize what the States are doing; and he has agreed of course to do that, and hopefully within a week's time, we will set up some mechanism for our committees to issue joint statements on these matters and get this process rolling.

But I fear that as long as we leave it up to the States alone that it is just not going to work, that some States will do a good job, and other States won't. So that means that the children in some States are taken care of better than children in other States, which is a clearly idiotic idea. They are all citizens of the same country.

Let me ask one question, Ms. Samuels, and then I am going to dismiss the panel.

You recommend the Office of Child Support Enforcement set up minimal staffing standards. Can you recommend any standards?

Ms. SAMUELS. Well, the only State I have been aware of, and this is my isolated area, as a rule of thumb, I would say, since some cases are dead cases and do not move, one staff person per 750 cases is what I would recommend at this time, based on my limited knowledge.

Acting Chairman DOWNEY. Thank you all very much.

[Whereupon, at 11:55 a.m., the hearing was adjourned, to reconvene at 10 a.m., Wednesday, March 2, 1988.]

# CHILD SUPPORT ENFORCEMENT PROGRAM

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WEDNESDAY, MARCH 2, 1988

House of Representatives,
Committee on Ways and Means,
Subcommittee on Public Assistance
and Unemployment Compensation,
*Washington, DC.*

The subcommittee met, pursuant to notice, at 10:15 a.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

Acting Chairman Downey. This morning the subcommittee continues its hearing on the child support enforcement program with the third and final session. In the hearings last week, we heard testimony on the Child Support Enforcement Amendments of 1984, interstate enforcement of child support, paternity establishment, and improving enforcement and collections.

Last week's testimony leads me to one conclusion: The 1984 amendments have not been implemented by the States as quickly as we had hoped. Although progress has been made, serious problems remain in the areas of paternity establishment, interstate enforcement, collections, and automated information systems.

Today, we look for solutions for these problems. What more can we do to assure that children receive support from both their parents? Are fundamental changes needed in the way we establish support obligations and collect support owed? Can the current patchwork system do the job effectively? I expect that our witnesses will suggest some interesting answers to these questions, and I look forward to your testimony.

Before I begin, are there any members of the subcommittee who would like to make opening statements? Hank?

Mr. Brown. Mr. Chairman, thank you for the opportunity to make an opening statement. I simply want to express my gratitude to you for holding this hearing, particularly on a day of deep mourning. As I am sure everyone is aware, the chairman was humiliated by the Republican basketball team last night. For him to be present today, I think, is an act of great courage. [Laughter.]

I would also like to express my gratitude for your inviting Congresswoman Roukema. She has been a leader in this area and has a great deal to says about improving the child support system.

One of our greatest opportunities to expand assistance to children in need is through strong child support enforcement, and I look forward to some positive suggestions and outcomes from this hearing.

Acting Chairman **Downey**. Thank you, Hank. Let the record show that the Democrats lost by 2 points and did not use their nuclear weapon, Tom McMillen, through any of this battle. [Laughter.]

Mrs. **Kennelly**. Thank you, Mr. Chairman.

I would like to submit for the record as my statement for today an editorial from "If you can't rely on the child support system, what's a mother to do?" from I believe Glamour magazine, which is a very savvy update on where we are in the child support enforcement era.

[The article follows:]

## EDITORIAL

Glamour
Magazine
March 1988

# IF YOU CAN'T RELY ON THE CHILD-SUPPORT SYSTEM, **what's a mother to do?**

There's a woman in Indiana who's about to lose her home. She used to be married to a successful car salesman, her children learning to swim and play golf at the local country club. But that was hundreds of dollars in unpaid child support ago. Today she sells Avon products.

And runs a home day-care center.

And cleans houses.

And still she's behind in house payments. Her ex-husband, somewhere in Florida, is a deadbeat dad, one whom Uncle Sam declared war on in the late summer of 1984. One of the nonpayers from whom a tough new federal law was going to pry $3 billion in unpaid support. How? By requiring states to enact laws to force fathers to pay up—through withheld wages and intercepted tax refunds. If that didn't work, liens could be placed on their property. A mother had only to walk into her local Office of Child-Support Enforcement to set the wheels in motion.

Congress passed the law unanimously. And almost everyone shared the feelings of Rep. Barbara Kennelly (D-Conn.), the bill's sponsor, who said, it would "help end the national disgrace of nonpayment of child support."

But now there are reports stating that "nearly a quarter of single mothers with support awards face a future rearing children with no financial help from the fathers, and that another 25 percent don't receive the full amount due them."

While the reports draw on 1983 census figures, there's been no dramatic rise in the yearly collections made by local and state agencies since then. Single mothers are still being pushed onto welfare. Or into debt. Or quickly into a new marriage—like the New York woman who lost her home, then—because she was homeless—her kids. "To get out of this mess," says Virginia Ingle, who runs a single-parent helpline in New York, "she married a ma [illegible] who abused her and didn't rea [illegible] want the kids—but he had a ho [illegible]

Women who do receive child support average less than $2,500 a year, often just enough to stave off poverty. Mothers with two children, for instance, must earn 80 percent of the pre-divorce, two-salary income to maintain their previous life-styles. Impossible. Women make only 65 cents to every man's dollar. They usually need the child support desperately.

So, why aren't they getting it? Partly because federally mandated remedies are new, with kinks to smooth out and backlogs to work through. Some child-support workers don't even know about the new procedures.

But not all the problems are ones that can be cured with time. Among them:

● Staffing has not kept up with increased responsibilities. In Virginia, child-support investigators handle an average of 1,300 to 1,500 cases each. Many agencies don't have their own process-servers; they must rely on the same sheriffs who deliver papers to folks charged with murder, rape and robbery. Not surprisingly, deadbeat dads get bottom priority.

● Interstate efforts to catch nonpayers are, in one advocate's words, "a mess, a mess, a mess." States often give short shrift to other states' cases—thus slowing an already snail-paced process and allowing the scofflaw time to hit the road.

● Many nonpayers are self-employed: doctors, for instance, or realtors or carpenters. "No employer's going to withhold their wages," says New York's Virginia Ingle. "It's the fellow making $250 a week you're going to get, the guy whose job is on the books and who doesn't have any mobility."

● [illegible] uniform. [illegible] of money that [illegible] unp [illegible] pport were stolen fro [illegible] ys Gloria A [illegible] attorney [illegible] would [illegible] police, FBI." [illegible] eat dads.

What's a mother to do?

[illegible] Plan. With 60 percent of today's [illegible] dren expected to live in a [illegible]-parent household sometime [illegible] ore reaching eighteen, [illegible] omen today would do well to follow the advice of Ann Helton, executive director of the Maryland Child-Support Enforcement Administration: "Don't only ask (a potential mate) if he's had an AIDS test, ask him for his Social Security number." Knowing this could save a lot of time if someday you need to track him down.

● Keep a dated record of which payments are made and which are missed. Also, keep a budget of what you spend from month to month, because child-support levels may be reset if you can prove an increase in your needs (or his ability to pay).

● Hire a private attorney only when you've failed to get results through a public agency. Agencies typically charge a $25 registration fee, private attorneys, five times that an hour—and may not know as much about child support.

● Know your rights, what programs you are entitled to. If clerks don't know the facts, go directly to their superiors. You can order a free Handbook on Child Support Enforcement by writing to the Consumer Information Center, 623 M, Pueblo CO 81009.

What more can be done? Plenty. Some child-support groups picket the homes of wealthy, self-employed nonpayers; some work to educate the local judiciary. For a list of groups in your area, and for a packet of information on how to get child-support payments, send $3 and a stamped, self-addressed envelope to the National Child Support Advocacy Coalition, P.O. Box 4629-0629, Alexandria VA 22303.

● Keep track of your case to make sure papers haven't been lost. Says one mother of four: "You can't rely on the system."

BEST AVAILABLE COPY

Mrs. KENNELLY. I am going to give Marge a copy, and I welcome you this morning, Congresswoman Roukema, because I well remember the day you and I were at the signing of the Child Support Amendments of 1984. We have got a long way to go, Congresswoman. I welcome you this morning because I think the next battle will be won because of these hearings called by our chairman, Congressman Thomas Downey.

Acting Chairman DOWNEY. Ms. Roukema, we will be happy to hear from you.

## STATEMENT OF HON. MARGE ROUKEMA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Ms. ROUKEMA. Thank you, Mr. Chairman. I do want to thank you for your leadership, and certainly the leadership of the ranking Republican colleague from Colorado, Mr. Brown; and certainly Mrs. Kennelly from Connecticut. I remember those early years when Mrs. Kennelly and I were somewhat lonely voices, but we were quickly able to turn that situation around and get the focus, a serious focus on the first round of child support enforcement amendments that were passed and are currently being implemented.

Mr. Chairman, I would ask unanimous consent for the full text of my remarks to be entered into the record and would prefer to speak extemporaneously at this time on a number of issues that are related to the future. I guess the future begins with the present.

Acting Chairman DOWNEY. Without objection, your statement will appear in its entirety in the record.

Ms. ROUKEMA. The future begins with the present, Mr. Chairman, and I must make the strongest possible case now for the reforms that are presently encompassed in the various welfare reform measures, both that which is before the House and passed by the House and that which is under consideration on the Senate side.

It seems to me that we cannot tolerate the possibility that child support enforcement and the reforms that are proposed could be withheld from enactment should welfare reform falter in this Congress. I am a strong proponent of welfare reform. I particularly think there are many excellent proposals encompassed not only in the House bill, but certainly in the Senate bill. And I would want that bill to pass. But as we all know, there seems to be some question as to whether or not it can pass in this Congress.

I make a strong plea that somehow, some way, before the end of this session, should welfare reform not be passed, that we do pass the child support enforcement Amendments and put them into law. That is essential if we are to have any credibility in terms of the next round of reform.

While we in Washington are debating new reform measures, I am happy to say that some of the States are moving forward, even in the absence of Federal requirements, to correct the problems as they see them. Wisconsin, for example, has already mandated immediate wage withholding and is looking to innovative procedures to assure child support programs similar to what we have in our proposed Federal legislation.

New Jersey, Texas, and Massachusetts, as well as Tennessee and many other States are either testing new programs or mandating stricter enforcement of withholding procedures. This is all to the good.

While we should take our cue from them, again, I repeat we cannot wait for the States, we should take whatever action we can now in this session of Congress and not permit any other reforms to hinder child support enforcement from becoming law.

Let us move now to what next steps should be taken, assuming that we have established this fundamental framework. In my discussions with State, county and local child support enforcement personnel over the past half decade, I have identified two principles which should guide our efforts. First, States must be given sufficient incentive to develop new enforcement programs and regulations. And along with those incentives, I think it has to be understood there would also be strong penalties at the Federal level.

We have established a penalty procedure in our current law. However, I question whether or not those penalty procedures are strong enough or, if strong enough, if they are being properly applied to the States. Here I might digress for just a moment and note the editorial in today's Washington Post, which could not be more current in terms of what the State of Virginia is now doing to bring itself in compliance with the 1984 amendments. It does say there that they are under order to bring the State into compliance or face $10 million in Federal penalties. This has evidently been a strong incentive for Virginia to act.

I might also say parenthetically that Mr. Harry Wiggins, who had been enforcement chief in the State of New Jersey, is now leading those efforts in Virginia. And I think it is to Virginia's credit that they are bringing themselves up to the standards that we have envisioned for them.

Mr. Chairman, I would like to have this editorial be submitted for the record.

[The editorial follows:]

# *Virginia's Child Support Efforts*

IN 1986, the Virginia state government's ability to collect child support payments from noncustodial parents was an embarrassment. An average of just $75 per family per year in delinquent payments was retrieved, leaving Virginia near the bottom nationally—behind Guam, Puerto Rico and every state except Oklahoma. Fortunately, there is good news for single-parent households who are legally entitled to child support. Virginia, finally, is beginning to improve.

The state's Child Support Enforcement Division collected an average of $179 from noncustodial parents in 1987, good enough to move Virginia into 42nd place. Enforcement officials were a bit more efficient as well, collecting $2.23 for every dollar spent in administrative costs—instead of just $1.57. But much more improvement is required. The Virginia House of Delegates can help by passing a bill that has already gained approval in the state senate.

The bill would authorize the Child Support Enforcement Division to have employers automatically withhold child support payments from the paychecks of noncustodial parents who have refused to pay. The senate bill would also give the division subpoena powers over financial records, making it more difficult for delinquent parents to hide assets. State officials say the law could increase collections by $20 million.

Virginia, moreover, is under federal orders to improve child support collections to offset the welfare costs of paying families through the federal Aid to Families with Dependent Children program. The state has collected so little that it faces $10 million in federal penalties for fiscal years 1984 through 1988. Federal law also requires that paternity be established in 75 percent of all public assistance cases. Virginia managed just 42 percent in 1986.

State officials say that each of Virginia's 155 child support investigators has 1,500 problem cases. Gov. Gerald Baliles is adding 188 new staff positions to allow more time on each case, and a new computer system that will monitor child support payments is being tested. Passage of a law that would provide for automatically withholding child support payments from the paychecks of delinquent parents would be a further step in the right direction.

Ms. Roukema. Second, I think the States—and here I am not quite so sure, and I look to the committee and HHS for some guidance here as to how we strike a balance. But I think it has to be recognized that States should be granted a degree of freedom or latitude to tailor their programs to meet their particular needs and situations. And we might be able to go into that a little further.

I would not want my view to imply in any way that there should be great latitude extended to the States. I do think the enforcement mechanisms that the Federal Government establishes should be quite specific, and only to a peripheral degree should the States be given latitude to meet their needs in their own way.

We have heard much talk recently about the need to automate and otherwise modernize State and county collection procedures. Clearly, these statewide automated procedures are imperative. States must begin to use procedures that coordinate the various counties or communities within their State. I think it would be shocking—it is shocking to me and I am sure shocking to the committee—to learn that there has been such a lag not only within individual States in terms of coordination, but intrastate as well. This is unfortunate, and I think there is no excuse for this to continue intrastate.

The merits of automation are self-evident: better coordination, less workload per caseworkers, which we find is more and more the crux of our problem; concise records of past and present cases; and all leading to improved inter- and intrastate coordination and cooperation.

It has been also my experience that our system needs better coordination between the administering agencies. In my own State of New Jersey, the courts are directly involved with enforcement and collection procedures. This not only keeps the system unified, but also enables the court to improve the accuracy of the recordkeeping. Delinquent cases are, therefore, returned directly to the court with little or no lag time or due process problems. The cooperation of the court system as a key participant through the process has proved extremely effective in New Jersey.

The feasibility of establishing the New Jersey experience as a national standard should be studied further. Now, in some States there is not a uniform court system, and perhaps another law enforcement agency within the State should be established as the lead agency and the conduit. Nevertheless, there has to be uniformity within the States.

In addition, we should have a comprehensive look at the caseloads and staffing ratios in the various enforcement agencies. We have all heard the horror stories of caseworkers struggling with as many as a thousand active files. Such a workload is not only intolerable and unacceptable, but it is unfeasible. You cannot expect people to be able to work efficiently with those kinds of caseloads.

Furthermore, we must study the in/out time for typical cases—that is, the wait time in most cases—and develop performance standards. These issues are especially critical. While we have a system in place that allows 30 days of arrearage, hopefully, of course, that 30 days arrearage will be a vestige of the past and we will have immediate mandatory wage withholding in the near future, which should help. However, this will not totally relieve the caseload problems.

We also need more information on the implementation of a uniform reciprocal enforcement support form, the so-called URESA forms. They continue to be a hodgepodge of different paperwork from State to State which makes processing difficult. States must be made to realize that the URESA cases are as important as current cases in their own States. Indeed, this is the heart of the 1984 reforms, reciprocity and cooperation between the States is the heart of the reform envisioned in our own bill this year in which States are required to comply and comply in a timely fashion and cooperate with each other.

Finally, Mr. Chairman, I have a recommendation that I believe may not have been presented before your committee heretofore, and that is to consider legislation that would extend the IRS tax withholding mechanism for those that are over the age of 18. Under current law, a noncustodial parent is no longer responsible for child support once the child reaches 18. This may be understandable. I mean, that is a justifiable standard.

However, significant enforcement problems arise when the child has reached 18 and there is still large arrearages. The child and the custodial parent now lose all access to IRS mechanisms for collection, even though those arrearages occurred prior to the turning of the age of 18. I believe that the custodial parent should have the continued use of the IRS mechanism. It is an important new tool and should not be foreclosed simply because the child has passed the age of 18. There is no good reason why a delinquent parent should be allowed to elude detection just because his or her offspring has reached that chronological age.

Finally, I guess I must say in general that, while I believe HHS had good intentions in terms of enforcing the 1984 law, I believe that more stringent requirements must be established to require HHS to comply with the letter of the law, and to enforce the penalties to the States.

Again, in conclusion, I would say it seems to me the heart of this matter is not only establishing credible penalties for those States that are in noncompliance, but having HHS actually enforce those penalties.

Thank you, Mr. Chairman.

[The statement of Ms. Roukema follows:]

Statement of
THE HONORABLE MARGE ROUKEMA
TO

3/2/88

Mr. Chairman:

At the outset, I would like to commend the distinguished Gentleman from New York for having called these hearings on this critical topic of child support enforcement reform.

Last week, the GAO testified on the magnitude of the problem and indicated that paternity was not established and/or support orders were not obtained when needed in 42% of the AFDC cases sampled. The statistics on interstate collection are just as dismal - in 1986, the average monthly collection recieved by states for interstate cases was lower by about $66, or 37%, than the average montly collection for all cases. The statistics are powerful and should carry the momentum of reform. The most recent census bureau reports indicate that of the 5 million women holding legally binding child support orders, less than half receive the full amount due to them. To put it another way, of the $11 billion in child support payment due in 1985, more than one-third, or close to $4 billion was not paid. This cannot continue.

I am well aware that these hearings were called to explore the next generation of child support enforcement improvements. However, as we look to the future let us not to lose sight of the present. Until we take decisive action and pass the comprehensive child support enforcement reforms which I and many of my colleagues have championed and which are included in the various welfare reform packages, our efforts in the future will at best make only a dent in an insurmountable problem.

In looking to a policy for the future, I cannot help but reiterate what I have been saying on this subject since the early 1980s. Legislation currently exists which reforms many of the problems you have heard from previous witnesses: it mandates immediate wage withholding; requires a regular update of child support orders; allows access to critical interstate tracking information which the GAO cited as being in need of enforcement, and; requires uniform guidelines to ensure equity and parity in child support orders. My bill, H.R. 1604, the Child Support Enforcement Provisions of 1987, enjoys broad-based support which transcends ideological boundaries. This bill is the present. But it also will dictate the future if we allow it too.

While our debate continues in Washington, some states are moving forward in the absence of federal requirements, to correct a situation they have long been predicting -- stricter guidelines in an area rife with loopholes. Wisconsin has mandated immediate wage withholding and is looking into innovative "assured child support" programs. New Jersey, Texas, Massachussets as well as Tennessee and other states, are either testing new programs or mandating stricter enforcement of withholding procedures. In fact, Virginia, as reported in today's paper, is moving toward enactment of a tougher program to meet mandated suppot enforcement provisions of the 1984 law.

We should take our cue from them. While we conduct these important hearings, we should bear in mind that action is needed now. If these hearings are to focus on the future of child support enforcement, let us focus on the paradox of waiting until it is too late to move on critical legislation now.

Yes, these same reforms were included in the welfare bill. But while the enactment of welfare reform this year is questionable, the need for real child support enforcement reform now is not. Even our colleague on this committee, Mrs. Kennelly has recognized the potential problem with passing a welfare reform bill this year and has introduced the child support elements of the welfare bill as a seaparate piece of legislation. For the sake of millions of American children and families, this bill and the spirit of true reform it represents, must be passed now.

But let's move beyond the specifics of what is needed today and take a hard look at what our next steps should be. In my continuing discussions with state, county and local child support enforcement personnel over the past half decade, I have identified two principles that should guide our efforts. First, States should be given sufficient incentive, financial or otherwise, to develop new enforcement programs and regulations or we must impose stricter penalties on the States for non-compliance. Aditionally, we must ensure that those enforcement requirements we have already adopted are *diligently* enforced by the Department of Health and Human Services. Second, states should be granted some degree of freedom to tailor their programs to their specific needs and situations. By this I simply mean that we must be realistic in our recognition that the states are not monolithic in their approaches to welfare. Certainly, we can understand that matters such as caseloads in states such as New York or California are necessarily different than those in Oklahoma or Wyoming. We must tak into consideration the fact that states will differ with respect to the monetary, personnel and training resources they can or are willing to commit to bring themselves into compliance with Federal law. But, while I am willing to empathize with some of the legitimate logistical problems certain states do encounter in trying to faithfully comply with the law, we cannot tolerate continued use of flimsy excuses, foot-dragging or just plain indifference on the part of non-compliant states.

We must insist that States understand the high priority the Congress places on the effectiveness of this program and the seriousness we ascribe to indifference of states which have failed to comply with the law. These tenants must over-ride all of the specific enforcement efforts we devise, discuss and ultimately enact.

Now specifically, our society is a mobile society and as such we are currently experiencing both inter- and intra-state processing systems which are erratic at best and present one of the most difficult problems we face in child support systems. Aside from the more familiar intrastate problems, a study recently completed by the State of Michigan regarding interstate caseload processing concluded that cases sent by Michigan to other states had only a 41 percent chance of yielding an order in the other state. We have heard much talk recently about the need to automate and otherwise modernize state and county collection procedures. Clearly, state wide automated systems are imperative. But perhaps even more important is that states must adopt efficent automated systems capable of coordinating interstate activities among neighboring jurisdictions so that cooperation and coordination between states can be achieved. A major reason for the breakdown of the interstate system of enforcement and collection has been the lack of compatible automated systems. States must begin to use systems that coordinate the various counties or communities in their region. The merits of automation are self evident - better coordination, less workload for caseworkers, concise records of past and present cases -- all leading to improved inter- and intra-state coordination and cooperation which was the very essence of the 1984 law which recognized this problem. The States know this and should not have to be threatened or otherwise cooerced.

This, then, may be one of those areas where the Federal Government can provide an incentive or assist the States as I mentioned above. Perhaps the Government could assist in the purchase of compatible systems or at least offer training aasistance to those states who cooperate with eachother in the purchase of a common system.

In another area, it has been my experience that our system could use better coordination between the intra-state administrating agencies. In my own state of New Jersey for instance, the courts are directly involved with enforcement and collection procedures. This not only keeps the system unified, but also enables the court to improve the accuracy of their record-keeping. Delinquent cases are therefore are returned directly to the courts with little or no lag time or due process problems. The cooperation of the court system as a key participant throughout the process has proven extremely effective for New Jersey. The feasibility of establishing the New Jersey experience as a national standard should be studied further.

Another project worth noting is the establishment of a national study to investigate the typical caseload standard and staffing ratios of the various child support agencies. The horror stories in the news indicating that many workers can have as many as 1,000 cases to work on is totally unacceptable. We cannot possibly expect an employee to adequately process such an enormous caseload. Furthermore the study of the "in - out" time of a typical case, the wait time on most cases and performance standards are necessary. In fact, I believe the GAO suggested that HHS consider creating a minimum nationwide performance standard by which HHS could evaluate the efficiency and effectiveness of state casework offices.

Another topic of great discussion has been the creation of a uniform URESA,(Uniform Reciporcal Enforcement of Support Act) form. The present day hodge-podge of differing paperwork from state to state makes processing difficult and completely strains what fragile inter-state cooperation does exist. States must be made to realize that URESA cases are as important as current cases in their own state and that the simpler and more uniform the process can be made, the more effective and efficient the system will become. As I have said time and time again, our nationwide enforcement network is only as strong as its component parts, meaning the states.

Finally, I have been working on additional legislation to extend the IRS tax withholding mechanism beyond age 18. Under current law, a non-custodial parent is no longer responsible for child support once the child reaches 18. Significant enforcement problems arise when the child reaches age 18 and the non-custodial parent in arrears. The child and the custodial parent now lose all access to the IRS mechanism to collect back support. This is an important tool and it should not be foreclosed to a young adult and his family. There is no good reason why a delinquent should be allowed to elude detection just because his or her offspring reach a certain chronological age.

Acting Chairman **Downey**. Thank you, Ms. Roukema, and thank you for your testimony.

Could you tell us what you see are the next generation improvements needed in child support enforcement beyond automatic wage withholding?

Ms. **Roukema**. Beyond automatic wage withholding?

Acting Chairman **Downey**. Yes.

Ms. **Roukema**. It is the interstate collection system. I think States should, through the penalties that are enforced by HHS, those States should be required to comply with the requirements.

You see, New Jersey, Wisconsin, Rhode Island, and I guess there are a few other States that are doing a good and credible job, but they are only as good as the cooperation they get through the interstate collection procedures.

I think some are being penalized for being good States by those States that are acting, either intentionally or unintentionally, as safe havens. It seems to me that all States should be required to meet the same standards of compliance, and that there is really no excuse for avoiding their responsibilities.

We at the Federal Government have said there are certain national standards to be complied with, and I do not think we should be winking or nodding at the scofflaw States who are not in compliance.

Acting Chairman **Downey**. To what do you attribute the long delays in the implementation of the 1984 amendments? Is that lack of State leadership?

Ms. **Roukema**. I think it is clearly lack of State leadership. I think some States are reluctant to apply their own resources to the problem; and perhaps because they do not feel the hot breath of the Federal Government there to make certain that they understand that we consider this a priority, and that we are not going to tolerate noncompliance.

Acting Chairman **Downey**. You have written us and testified today that you would like to see the child support enforcement amendments separated out from welfare reform. Let me be very clear——

Ms. **Roukema**. Excuse me, Mr. Chairman. May I clarify that? I do not want them per se to be separated out of welfare reform. I think it is the appropriate vehicle.

What I have said is that, should welfare reform falter, and it seems as though there is a good prospect that that reform will not pass both House and Senate and be signed into law this year. If that seems apparent, then I do not want child support enforcement reform held hostage to some future welfare bill.

Acting Chairman **Downey**. Let me be very very clear on this. Neither I nor the members of my subcommittee, save my minority colleagues, view any independent element of welfare reform as hostage to any other.

Second, we view the responsibility of taking children out of poverty as a serious one. We believe that the way to do that in part is to help parents to become more self-sufficient. Child support enforcement is an element of that. So is child care. So is work, education and training. So are earned income disregards. So is the extension of medical benefits. They all go together.

I can assure you now, and anyone who is listening, that they will all go together or none of them will go together.

Ms. ROUKEMA. Well, Mr. Chairman, let me respectfully disagree to this extent: Child support enforcement reforms affect many more people than only those who are on welfare. I will submit for the record some statistics of those women and children who have legal child support orders and who are not on welfare and who are not collecting their proper child support.

Therefore, it seems to me that, while it is an overlapping issue—and, indeed, my own State of New Jersey has had wonderful pilot programs to show how many people they can take off welfare by proper enforcement of child support—the overwhelming number of women and children who are not receiving their child support, what is legally coming to them, are not on welfare. Therefore, I think it justifiable to separate the bill out as a free-standing bill should it not be able to be passed as part of welfare reform.

Unfortunately, I have been told—not by you, Mr. Chairman, but in another forum—the implication has been rather specific that somehow we want to use what we save on child support as a means of reducing the total cost of the welfare bill. I do not think that is the way this should be looked at.

Mrs. KENNELLY. Would the chairman yield?

Acting Chairman DOWNEY. I will yield. I just want to make this point, and then I will yield.

The reason we are having these hearings on child support enforcement is that we believe that the 1984 amendments, if properly implemented—indeed, when Mr. Stanton comes before us, we will have questions for him—can accomplish a lot. But I would not give his agency the work that he has done particularly good marks. I think the Federal Government has done, a poor job. Had they done a better job, had some of the States done a better job, we would have greater paternity establishment, and we would have the greater effectuation of orders, and women would not be in the current condition they are in.

We think we need to do more, and that is why we have made the changes we have in H.R. 1720 for child support enforcement. No one is suggesting that the money that we save be used to pay for welfare. That misses the point, which I will make again. They are all part of the package. They are part of the transition from dependency to productivity that we think needs to be made to eliminate the appalling number of children in poverty.

Child support enforcement, for the most part, is not something that is politically volatile. Both sides agree that it should be done. Both sides do not agree on other aspects of welfare reform—you did not vote for H.R. 1720. Mr. Brown did not vote for H.R. 1720. There is tremendous controversy over whether or not we should wash our hands of welfare, which, with all due respect, I think characterizes your approach; or whether or not we should be serious about putting the resources into changing the system.

So I am sorry if some view this as a hostage or something that should go ahead. We want to see it go ahead, but we do not want to see the other things not happen. And we are afraid that some of the other things might not happen; that we might not want to extend child care as far as we would like; or we might not provide a work training program. That is not something we want to do.

I yield to the gentle woman.

Mrs. **Kennelly**. Thank you, Mr. Chairman. I just wanted the record to remain clear. I have introduced the child support enforcement provisions of the bill in a separate bill some time ago.

Thank you, Mr. Chairman.

Ms. **Roukema**. Mr. Chairman, I want to clearly distinguish whatever minor differences we might have on the subject of welfare reform from our key agreements with respect to child support enforcement and its reform.

You have correctly identified the mandatory wage withholding as the essence of this, but I believe you, based on what you have just now said, would also agree with the point that I have made, both in these present reforms as well as in future reforms, that the key is the credibility of the penalties to the States and the enforcement for HHS.

I am not in a position to evaluate how well HHS has been doing its job in terms of that enforcement. But, clearly, whatever those penalties are, they should be enforced; those penalties should be ascribed. And I do not know whether Virginia's case is unique, but whatever they have done in Virginia to enforce compliance should be done throughout the Nation in all 50 States.

Acting Chairman **Downey**. Oh, I agree, and I invite you to stay and listen to Mr. Stanton's testimony and the questions we will have for him, so you can get a better sense of what the Federal Government is doing.

Mr. Brown.

Mr. **Brown**. Thank you, Mr. Chairman.

I just would add one observation. I think both parties share a broad range of agreement on welfare reform. I continue to be optimistic that we are going to get something worked out. Of necessity, such an agreement involves compromises on both sides, which I accept and in which I am happy to participate.

The danger, I think, is that we might come up with something in welfare reform that make things worse instead of better. Obviously, the definition of "worse" does depend on your point of view.

It would be tragic if we include restrictions on work as part of welfare reform. I don't know whether we will have those things on which we agree passed separately or included in one bill but I really think it would be a tragedy for this Congress to end without having addressed at least those areas we agree on.

Acting Chairman **Downey**. Mrs. Kennelly, do you have questions?

Mrs. **Kennelly**. No.

Acting Chairman **Downey**. Mr. Donnelly.

Mr. **Donnelly**. No questions.

Ms. **Roukema**. Mr. Chairman, I would like to say that one of the issues that I have not volunteered an opinion on, because I have not clearly worked this out in my own mind, is whether there should be an obligation on our part to help the States move towards automation.

I do not see that as our obligation presently. But it is something I certainly would like to work with the committee on in the next round. As we make more requirements on the States, what should be our incentive role? Some have proposed pilot demonstration projects. I frankly think we are beyond the point of demonstration projects.

I think the States have clearly enough experience to know how to go about it. It is a question of whether or not they are going to be willing to put their own resources into it. I think that is something that we all ought to work on together and figure out a formula as to how those requirements can be implemented after being mandated by our legislation.

Acting Chairman DOWNEY. Thank you, Ms. Roukema.

We will now hear from Mr. Stanton. I would tell the gentleman from Texas I do not want to see him stand there. The attorney general of Texas should not stand, so I invite him to sit at the table.

Please begin, Mr. Stanton. Your testimony will be made part of the record. You can summarize it, if you will, or read it. It is your choice.

## STATEMENT OF WAYNE A. STANTON, DIRECTOR, OFFICE OF CHILD SUPPORT ENFORCEMENT, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. STANTON. Mr. Chairman and members of the committee.

Mr. Chairman, I thank you very much for including my prepared statement as part of the record. I also want to make an oral statement that summarizes my prepared materials. Then I will, of course, be pleased to answer your questions and hear your comments.

I appreciate the opportunity to discuss the organizational structure of the Office of Child Support Enforcement within the Department of Health and Human Services, and I am pleased to discuss the future direction of the child support enforcement program.

First, Secretary Bowen and I share your strong commitment to the child support enforcement program. Each member of the committee, I think, has demonstrated that. We are pleased to see that you have devoted several full days of your time for hearings on this most important topic. I will focus my testimony on the key areas which, in my judgment, should be emphasized in the future to improve child support enforcement: establishment of paternity and establishment and enforcement of adequate support obligations—the backbone of the child support enforcement program.

Before beginning this discussion on future directions, I would like to address one other issue which I understand is of interest to the committee today: the organization of the Office of Child Support Enforcement (OCSE).

Strengthening family bonds and reducing welfare dependency are high priorities for Secretary Bowen and me. In 1986, Secretary Bowen established the Family Support Administration which includes Child Support Enforcement, aid to families with dependent children (AFDC), community services block grants, refugee and newly legalized aliens assistance, low-income home energy assistance, a work incentive WIN program, and a few other Secretarial initiatives.

The overwhelming cause of welfare dependency today, AFDC, if you will, is the lack of parental support for children. Almost 90 percent of the families on AFDC are there as a result of divorce, desertion, legal separation or out-of-wedlock births. Out-of-wedlock births constitute more than one-half of all AFDC cases.

Therefore, a reassertion of the legal and moral responsibility of parents to acknowledge paternity and to provide adequate support for their children is an essential and vital part of the solution to the welfare dependency problem.

I have the unique responsibility of serving a dual role as the administrator of the Family Support Administration and the director of the Office of Child Support Enforcement. I would like to make clear, however, that as required by statute, the Office of Child Support Enforcement retains its status as a separate organizational unit in HHS.

As director, I exercise final authority for all decisionmaking on policy and operational issues. In addition, I understand there have been some concerns expressed about the Office of Child Support Enforcement Audit Division and the regional office structure. The organization of FSA has left these areas virtually unchanged. The Regional Office of Child Support Enforcement remains a separate organizational unit in the Family Support Administration Regional Office structure.

My Audit Division staff continues to develop, plan, schedule and direct the conduct of periodic audits of State child support enforcement programs in full accord with General Accounting Office, GAO, standards.

With the organizational structure in place, with competent and dedicated staff at the Federal, State, and local levels of support enforcement, and with continued strong support from congressional leaders, we will build upon our past successes to ensure that more children receive the parental support to which they are legally and ethically entitled.

From this strong foundation, we move to the bigger question at hand, where do we go from here?

The statistics on child support and welfare dependency are most enlightening and challenging. The most recent census data show that only 61 percent of the 8.8 million women caring for children whose fathers were absent from the home had orders for support. And of those, less than half received the full amount of child support that they were due, while approximately one-fourth received nothing at all. In 1985 alone, unpaid child support totaled nearly $4 billion. For the most part, the 1984 Child Support Enforcement Amendments gave us the tools to strengthen efforts to collect unpaid support. Now we need to aggressively encourage States to take full advantage of these tools to promote self-sufficiency and family stability and reduce the need for public dependency. Where necessary, we need to further strengthen the child-support tools so that they can fully serve the purpose for which they were intended.

I see this process leading in two directions—first, much more effective and aggressive establishment of paternity, an essential and vital key to increasing the effectiveness of the child support enforcement program; second, increased efforts in locating absent parents and establishing and enforcing much more realistic child support orders. I would like to address both of these issues in more detail.

Paternity establishment is the first phase in child support for a child born out of wedlock. Nothing can be done with respect to collection until the father is legally identified.

Nationally, over 800,000 out-of-wedlock births occur each year, and over half of all the children in AFDC households are born out of wedlock. However, last year only about 254,000 paternities were established. Clearly, this is a critical concern which needs to be addressed quickly. If the actions to establish paternity we initiated soon after the birth of the child, about 85 percent of the paternities established would be voluntary, inexpensive, and not involve lengthy court or legal battles.

Our performance standards for monitoring State program performance in the area of paternity establishment can and will be strengthened. Last September, I began the process by advising States that the audit standard for evaluating paternity establishment services would be based on the actual establishment of paternity and support orders or the initiation of legal action to do so. This is a much tougher standard than was previously used. We will make additional changes in the area of paternity establishment through the regulatory process as necessary.

Further, in reviewing legislation currently under consideration by the Congress, I have been pleased to see strong bipartisan agreement on proposals to further strengthen paternity establishment.

My second suggestion on future initiatives in the child support enforcement program is focused on locating absent parents and establishing and enforcing more adequate support orders.

Average child support award amounts have historically been low and have not taken into account the true cost of raising children. Two recent studies have estimated that if all absent parents paid support based on realistic guidelines, over $27 billion was potentially payable for 1984.

The 1984 amendments required States to have separate support guidelines, but did not require that these guidelines be mandatory. There is agreement, both in Congress and the administration, that legislation should be enacted to mandate the use of support guidelines.

Also central to improving location, establishment and enforcement of adequate support orders, as well as paternity establishment, is enhanced, cooperative working relationships between the AFDC and Child Support Program staffs. These programs have a cause-and-effect relationship, and need to relate more closely to the common goal of self-sufficiency. This was the basis for the formation of the Family Support Administration.

We have reviewed the interface of these programs in a number of States, and the results are very discouraging—poor quality information and late referrals from the AFDC operation to the Child Support staff, lack of communication, and inadequate staff training in AFDC. As a result, I have initiated ongoing efforts to improve cooperation and coordination of the AFDC and child support enforcement programs.

Going hand-in-hand with staff interaction between programs is computer systems interaction. Each State must have an automated statewide system in place to allow for improved child support services.

When I became the Director of the Office of Child Support Enforcement, 15 States with a funding level of $40 million were in some phase of a statewide, comprehensive computer project. Today 36 States, more than double the previous number, are undertaking such automation projects. Of these, 18 are involved in a transfer of another State's operational and effective data-processing system. We have committed $120 million, three times the previous commitment to these projects, and we have stressed the need to expedite their completion. System transfers greatly expedite development and cost much less.

States have made progress in their efforts to automate, but much more needs to be done, and soon. I therefore not only support, but believe it essential, that legislation be passed which would require the States to have a statewide automated system, as provided in all of the major welfare reform bills under consideration in the Congress.

Finally, I would like to discuss one more inexpensive and very effective tool for improvement in both paternity establishment and location and establishment of adequate support orders—continual contact with high-level State officials.

I have met with top child support officials—public welfare secretaries, directors, and administrators, some Governors, some attorney generals—in all States but two, to make clear that vigorous new action and additional staff resources are essential. These meetings have been very productive and will be continued. I believe they are beneficial, as exemplified by the action of the Virginia editorial in today's paper.

Commitment by State and local leadership and State legislators is absolutely vital to the success of any child support enforcement program. Certainly, as much attention needs to be devoted to dependency prevention as to paying benefits after dependency occurs.

Where do we go from here? First, we must continue to work closely with the States, using all of the tools we have to convince them of the need to strengthen their child support enforcement efforts. I am in complete agreement with the chairman of this subcommittee to publicize those States performing admirably as well as those performing miserably. This approach has been most successful for me thus far, and as our ability to gather data through automated systems improves, so will this technique for identifying problem areas and presenting them to the States. Our constituencies are really interested in this subject. Second, my office will continue to seek all methods for improving support enforcement and to share these findings. Finally, we will support legislative efforts to strengthen the present child support system.

I think we all would agree that there is no room for apathy in the enforcement of support for our Nation's children. The objectives are crucial; the rewards are enormous.

Mr. Chairman, I would be especially pleased to answer any questions, and if I can't do so, I'll call on some of my valued assistants here with me today.

[The statement of Mr. Stanton follows:]

### DEPARTMENT OF HEALTH AND HUMAN SERVICES
### STATEMENT BY WAYNE A. STANTON
### DIRECTOR
### OFFICE OF CHILD SUPPORT ENFORCEMENT
### March 2, 1988

Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to discuss the organizational structure of the Office of Child Support Enforcement within the Department of Health and Human Services and the future direction of the Child Support Enforcement program.

Secretary Bowen and I share your strong commitment to the Child Support Enforcement program. We are pleased to see that you have devoted three days of your time for hearings on this important topic.

The once stable institution in American society, known as the family, has undergone tremendous change in the past 25 years. This change results from increases in divorce and separation, out-of-wedlock births, teen pregnancy, and the failure of parents to maintain their financial responsibility to their children. In response to this dramatic change in family structure and the lack of financial commitment on the part of many absent parents, the Child Support Enforcement program was established in 1975 as a Federal/State cooperative effort. The program was substantially improved and strengthened by the enactment of the Child Support Enforcement Amendments of 1984.

Last week, you heard from Bob Harris of my office on the status of States' implementation of these 1984 Amendments. Significant changes have been put in place by the States and we are beginning to see results but there is a long way to go. No State implements all of the provisions of the 84 Amendments as well as it should. Dramatic improvements are needed across the nation. However, there are some bright spots in individual localities. What we need to do, is to encourage the expansion of these bright spots throughout each State.

Last year we collected nearly $4 billion in child support (up from $3.2 billion the year before) and this year we have set a goal of increasing collections by 25% to $5 billion. I highlight these numbers not only to illustrate the growing effectiveness of the child support program and its positive impact on State budgets, but more importantly to underscore the positive impact these collections can have on families.

Through the child support enforcement program many support orders are now being established, thousands of paternities have been established and more absent parents have begun to assume financial responsibility for their families. This alone makes for a stronger family unit. In addition, for families on AFDC it could mean a first step toward self-sufficiency. For non-AFDC families, it could mean the difference between remaining self-sufficient and falling into the welfare trap.

I will focus my testimony on the key areas which should be emphasized in the future in order to improve establishment of paternity and establishment and enforcement of adequate support obligations -- the backbone of the child support enforcement program.

Before beginning this discussion on future directions, I would like to address one other issue which I understand is of interest to your Committee today -- the organization of the Office of Child Support Enforcement.

Strengthening family bonds and reducing welfare dependency is a high priority for Secretary Bowen and myself. That is why in

1986 Secretary Bowen established the Family Support Administration which includes the Office of Child Support Enforcement. With the formation of the Family Support Administration, we have placed renewed and greater emphasis on improving the design of programs to support family needs. In addition to Child Support Enforcement, the Family Support Administration is responsible for those programs having the most direct impact on the family, especially the Aid to Families with Dependent Children (AFDC) program.

The overwhelming cause of most welfare dependency today, AFDC if you will, is the lack of parental support for children. Almost 90 percent of families on AFDC today are there as a result of divorce, desertion, legal separation, or out-of-wedlock births. Of those AFDC families in which the youngest child was under 3 years old, 72.9% were on AFDC due to that child being born out-of-wedlock. Therefore, a reassertion of the legal and moral responsibility of parents to acknowledge paternity and to provide adequate support for their children is an essential and vital part of the solution to the welfare dependency problem. Simply stated, a stronger, more effective child support enforcement program will reduce welfare dependency.

I have the unique responsibility of serving a dual role as the Administrator of the Family Support Administration and the Director of the Office of Child Support Enforcement. This dual role allows me to more effectively coordinate two very closely integrated programs, AFDC and Child Support.

I would like to make clear, however, that as required by statute, the Office of Child Support Enforcement retains its status as a separate organization. As Director, I maintain final authority for all decision making on policy and operational issues of the program. In order to make these policy and programmatic decisions more efficiently and effectively, I have made several structural changes in the Office of Child Support Enforcement. Financial management, administrative support, and internal computer systems functions have been transferred from the Office of Child Support Enforcement to the Family Support Administration. These functions have been consolidated for all FSA programs to increase overall operating efficiency and actually provide OCSE with more program support than in the past.

In addition, I understand there have been some concerns expressed about the Office of Child Support Enforcement Audit Division and the Regional Office structure. The reorganization has left these areas virtually unchanged. The Regional Office of Child Support Enforcement remains a separate organizational unit in the FSA Regional Office structure.

The Audit Division continues to develop, plan, schedule and direct the conduct of periodic audits of State child support enforcement programs in accordance with General Accounting Office (GAO) standards. These audits are conducted by area audit offices which report directly to the Audit Division here in Washington, D.C.

I would like to add one final comment on the child support organizational structure as a further example of the high priority of this program in our Department. Since I became Director of the program, Federal staffing in child support has increased by 10 percent. I am committed to making child support more effective and one key way to do this is by moving staff into the child support area. I might add that this staffing increase has occurred at the same time that overall staffing levels in the Family Support Administration have decreased by 12 percent.

With the organizational structure in place, with dedicated staff at the Federal, State and local levels of support enforcement, and with continued strong support from Congressional leaders, we will build upon our successes in ensuring that more children receive the parental support to which they are entitled.

From this strong foundation, we move to the bigger question at hand which you have asked me to address today -- where do we go from here? The statistics on child support remain staggering. The most recent census data show that only 61 percent of the 8.8 million women caring for children whose fathers were absent from the home had orders for support; and of those, less than half received the full amount of child support they were due. In 1985 alone, unpaid child support totaled nearly four billion dollars.

For the most part, the 1984 Child Support Enforcement Amendments gave us the tools to strengthen efforts to collect this unpaid support. Now we need to push States to take full advantage of these tools to promote self-sufficiency and family stability -- and where necessary, strengthen the tools so they can fully serve the purpose for which they were intended.

I see this process leading in two directions: First, more effective and aggressive establishment of paternity -- an essential and vital key to increasing the effectiveness of the child support enforcement program. Second, increased efforts in locating absent parents and establishing and enforcing adequate support orders. I would like to address both of these efforts in more detail.

Paternity establishment is the first stage in child support for the child born out-of-wedlock. Nothing can be collected until the father is legally identified. Nationally, over 800,000 out-of-wedlock births occur each year, over half of the children in AFDC households are born out-of-wedlock, and many of these families and children remain on welfare for long periods of time. In some major urban areas, 75-85% of new AFDC cases are for children born out-of-wedlock. However, last year only about 254,000 paternities were established in this country. Clearly, this is a growing concern which needs to be addressed quickly. My approach to this problem is two-pronged: convince States to do more with the paternity establishment tools already available and strengthen those tools as necessary.

Our standards for monitoring State program performance in the area of paternity establishment can, and should be, strengthened. In September, I began the process by advising States that the audit standard for evaluating paternity establishment services would be based on the actual establishment of paternity and support orders or the initiation of legal action to do so; this is a much tougher standard than was previously used. And we will make additional changes in the area of paternity establishment through the regulatory process, as necessary.

The child support enforcement program is unique in that the law provides carrots and sticks to be used in recognizing State performance. Aggressive child support efforts are directly rewarded by increased financial incentive payments to States and less directly but just as importantly, by reduced AFDC, Food Stamp and Medicaid expenditures. However, the sticks for poor performance are equally strong. If a State does not meet the paternity establishment standards, (as well as locate standards and requirements regarding support orders) set by statute and regulation, then I am required by statute to apply stiff financial sanctions for States which do not have efficient and effective programs in substantial compliance with the requirements.

My goal, however, is not to take money away from the States; but to see States run better and more effective child support programs. For example, under the "State Plan" approval process, 12 States were notified that their programs did not conform with Federal requirements and advised of the large fiscal penalty if improvements were not made. Eleven of these States have subsequently taken the steps necessary to achieve conformity to the requirements -- a good example of a statutory enforcement tool effectively being used to improve State performance. Had the necessary program changes not been made, all Federal funding would have been lost.

In addition, during the last year or so, thirty-two States have had penalties identified by audits of each State's child support program, which could result in up to 2% of a State's Title IV-A funds being withheld. The penalties have been suspended for up to one year while States undertake corrective action to come into compliance. However, if all these State ultimately were assessed the penalty for FY 1985, almost 36 million dollars in Title IV-A funds would be withheld.

Further, in reviewing legislation currently under consideration by the Congress, I have seen strong bi-partisan agreement on proposals to further strengthen paternity establishment standards. These provisions are in keeping with the Department's commitment to establish and monitor standards for State program performance to insure that States make the best use of remedies available for establishing paternity as well as securing appropriate child support.

This leads to my second suggestion on future initiatives in the child support program -- locating absent parents and establishing and enforcing adequate support orders.

Average State child support award amounts have been too low and have not taken into account the true costs of raising children. Two recent studies have estimated that if all absent parents paid child support based on realistic guidelines, over $27 billion was potentially payable for 1984. Further, on the question of whether absent fathers have sufficient income to pay increased support orders, studies have shown that in 1985 even young absent fathers (21 to 29) have the ability to do so.

The 1984 Amendments required States to use guidelines in establishing support orders, but did not require that these guidelines be mandatory. Given this large potential to increase collections, more must be done in this area. There is agreement both in the Congress and the Administration that legislation should be enacted to mandate the use of guidelines.

Mandating the use of guidelines for setting child support award amounts with accompanying requirements for periodic review and modification of support orders insures that equitable levels of support are ordered for all families and that such amounts remain equitable over time. Once adequate support awards are established there is further agreement that an immediate wage withholding provision should be enacted. Immediate wage withholding provides a stronger mechanism for ensuring that timely support payments will be received from all working parents, without waiting for a payment problem to occur.

Also central to improving locate, establishment and enforcement of adequate support orders (as well as paternity establishment) is enhanced relations between the AFDC and Child Support programs. These two programs have a cause and effect relationship and need to relate more closely to the common goal of self-sufficiency. Lack of financial support clearly causes large AFDC rolls while aggressive support services can reduce these rolls.

We have reviewed the interface of these programs in a number of States and the results are discouraging...poor quality information and late referrals; lack of communication and inadequate staff training. As a result, I established a IV-A/IV-D Interface Initiative to improve effective cooperation and coordination of the AFDC and Child Support Enforcement programs.

OCSE is collaborating with the AFDC program on demonstration projects to test innovative provisions for cooperation and coordination toward improving the interface between AFDC and CSE. In addition, a number of States have initiated pilot projects to test the feasibility of other creative provisions. Finally, OCSE has developed training packages designed to strengthen the training and orientation of workers within and between programs. These are early steps toward improving the joint cooperation and coordination of these programs. We hope to learn from these demonstrations about new ways to improve the interaction of these two programs and will use this information to shape the future direction of these programs.

One thing we do know already is that most States haven't given enough attention to the Child Support program. A comparison of State staffing levels for AFDC and Child Support clearly demonstrates this point. For example, in one State each AFDC worker handles 29 cases and each Child Support worker handles 1,170 cases. We are strongly urging States to change this discrepancy, emphasizing the greater gain that can be made through the Child Support program both for the State and the family.

Going hand-in-hand with staff interaction between programs is systems interaction. Each State must have an automated Statewide system in place to allow for improved child support services and more efficient case processing. Time and time again, our audits are showing that poor case tracking and management are at the root of the State's failure to substantially comply with program requirements. These problems could be easily rectified with an automated Statewide system for tracking and monitoring child support cases.

I do not want to lead you to believe that automating State Child Support Enforcement programs is an easy task. As you have heard in these hearings, the problems in performance of the State programs are most often related to top-level management commitment to ensure that the political entities charged to carry-out the program in the State communicate and cooperate. This is particulary true when trying to develop a Statewide, comprehensive system. In order to bring about change, all of these entities must work together and agree to standard, uniform policies and requirements.

We are not where we would like to be, but we have made progress in this area. When I became the Director of OCSE, 15 States with a funding level of $40 million dollars were in some phase of a Statewide, comprehensive project effort. Today 36 States are undertaking such computer and/or automation projects. Of these, 18 are involved in a transfer of another State's data processing system. We have committed $120 million dollars to these projects and stressed the need to expedite their completion. We have managed the projects closely to ensure that the system will improve the State's ability to carry-out the procedures required by the Child Support Enforcement Amendments of 1984.

Prior to my coming to FSA, little attention was given to facilitating automated information exchange between the AFDC and CSE programs, notifying the State Medicaid agency of an absent parent's insurance status, and exchanging interstate information. We have dramatically improved these capabilities of State systems. At the same time, we have ensured that the State can utilize automated procedures to effect wage withholding, liens and credit reporting.

In this same vein, automation is clearly a critical part of the answer to the problems surrounding enforcement of interstate automate. But, much more needs to be done, and soon. The time has come for all States to have Statewide, comprehensive child support enforcement systems in place. I, therefore, not only support but believe it essential that legislation be passed which requires States to have a Statewide system, as provided in all the major welfare reform bills currently under consideration by Congress.

Finally, I would like to discuss one more inexpensive and very effective tool for improvement in both paternity establishment and locate and establishment of adequate support orders -- continual contact with State officials. I have met with top child support officials in all States, but two, to make clear that vigorous new action and additional State resources to improve current program performance are essential. These meetings have been very productive and should be continued in the future. The message presented was that States must take a more aggressive roll in providing necessary services because child support can make the difference between a childhood of poverty and a better way of life. But, these meetings went beyond philosophical discussions on the importance of child support. Using data gathered from our audits and program reviews conducted by Regional Offices, we were able to provide States with specific information on how their programs were functioning and where problems have been identified.

Where do we go from here? First, we must continue to work closely with States using all the tools we have to convince them of the need to strengthen their child support efforts-- incentives, penalties, high-level meetings, exchange of data, and all those other activities I mentioned earlier in my testimony. I am in complete agreement with the Chairman of this Subcommittee to publicize those States performing admirably as well as those performing miserably. This approach has been successful thus far, and as our ability to gather data through automated systems improves, so will this technique for identifying problem areas and presenting them to States. Second, my office will continue to seek methods for improving support enforcement and to share these findings with States. Finally, we will support legislative efforts to strengthen the child support system by making the available tools more effective.

I think we all would agree that there is no room for apathy in the enforcement of support for our nation's children. It cannot and will not, be tolerated - the objectives are too crucial, the rewards invaluable. Thank you. I would welcome any questions you may have.

Acting Chairman DOWNEY. Thank you, Mr. Stanton. I want to start off with an issue on which we wrote Secretary Bowen. The subcommittee asked about the reorganization of the Office of Child Support Enforcement,

On November 20 of last year, he replied to us. He indicated that the reorganization was not yet complete, and that he had yet to consult with "appropriate labor relations and personnel officials."

Now, could you tell us what the current status is of this reorganization, and whether or not it has been fully implemented.

Mr. STANTON. Mr. Downey, I will answer that as best I can, with the constraint that there is a pending lawsuit on that subject.

The union objected, first of all, to our moving the location of the child support office from Rockville to the central headquarters here in Washington, DC. They went to court and asked for an injunction to stop that action. The court denied the injunction.

The union also is alleging, I believe, that we do not operate a single, independent child support agency. We have attempted to resolve this matter independently, between the parties affected. My latest word is that there is no agreement, and that the issues will be litigated.

Acting Chairman DOWNEY. So the consultation with labor relations and personnel officials to which the Secretary alluded was a result of this lawsuit?

Mr. STANTON. No. It was not entirely a result of this lawsuit.

First of all, if I might elucidate further, I indicated in my testimony that AFDC and child support is a cause-and-effect relationship, and the numbers of people on AFDC directly relate in a huge proportion, say 90 percent, to the absence of one parent from the home.

These programs, even though they're both directly related to dealing with people, were entirely separated by miles in location and absence of any communication. It was my intention and the Secretary's intention to bring them together so that they would cooperate, would communicate, would appreciate each other's value. And that was the purpose of the move.

Acting Chairman DOWNEY. What I am trying to find out, however, is why the labor relations and personnel officials had to be part of the reorganization plan.

Mr. STANTON. Well, there are certain labor agreements that we have that give the labor people certain considerations with respect to space, desks, movement, et cetera.

It was our contention, and the court, I believe, ruled in our favor on this, that you can move organizations that are within the same commuting area. The child support office was 12 miles from our present office, and the court, I believe, ruled that it was totally within our jurisdiction to decide the employment location.

Acting Chairman DOWNEY. Right, so——

Mr. STANTON. Obviously, some employees did not like that move, and so they opposed it, as is their appropriate legal right.

Acting Chairman DOWNEY. So the reorganization plan, you think, will be finished when? When the lawsuit is eventually over?

Mr. STANTON. I believe the organization plan is now complete.

Acting Chairman DOWNEY. Would you, in that case——

Mr. STANTON. And I firmly believe the court will confirm our action as appropriate.

Acting Chairman DOWNEY. Okay. Would you then please supply the subcommittee with an organizational chart of the Family Support Administration and its subunits? We would also like the chart to show the national and regional offices, and identify how many of these individuals are wearing two hats within the organization structure.

Mr. STANTON. Mr. Chairman, I would be happy to submit that and have my staff deliver that to you.

But let make a comment with respect to the two-hat situation, which we will be happy to show you on our organization chart.

Acting Chairman DOWNEY. Right.

Mr. STANTON. I wear two hats, as I indicated in my testimony. My regional representatives for child support also wears two hats, as the regional representative for child support and also the regional representative of the other programs, principally AFDC.

Those, and the Associate Administrator for Management and Information Systems, are the only persons that wear two hats in the Family Support Administration.

Acting Chairman DOWNEY. As you know, the Social Security Act specifically requires that the Secretary of HHS establish, quote, "a separate organizational unit that reports directly to the Secretary to carry out child support enforcement responsibilities." The organization of OCSE appears to violate this statutory requirement.

Mr. STANTON. We would respectfully disagree with your contention. I report directly to the Secretary, and there are no intermediaries. I run the child support operation.

Acting Chairman DOWNEY. And it is your contention that the Social Security law does not require the establishment of a separate unit for OCSE?

Mr. STANTON. Mr. Chairman, I would like to present to you the organization charts, which will show a separate organizational structure for child support.

Acting Chairman DOWNEY. Let me ask a question about the audit process, and I want to come back to this in a second.

The audit process appears to be one of the ways that we can be certain that States are fully implementing the child support enforcement law. However, I understand that the Inspector General of HHS has objected to your reorganization of the audit function of the child support program.

Can you tell us the basis for his objections?

Mr. STANTON. Yes, I would be happy to.

Some persons in our Agency, the audit section of our Agency, went to the Inspector General and objected to my movement of people that worked in audit from separate locations in buildings where there were two people occupying space for 12 or 14. There was too much unused space and the cost was horrendous.

I moved those people in four regions to the regional office of child support where we had additional space available.

Some persons that worked for me went to the Inspector General and complained that somehow this was taking away the independence of the audit staff.

I responded to the Inspector General by telling him that that was nonsense, that there was nothing done that infringed upon the individuality or the competency of the audit. I merely established better organizational control for those people, reduced Government cost, and reduced unused space. I responded in writing to the Assistant Secretary for Management and Budget with a copy to the Inspector General about this issue.

It is interesting, Mr. Chairman, that the Inspector General freely distributed copies of his report to me, but did not distribute copies of my reply, and I will be happy to make that available to you if you wish.

Acting Chairman Downey. Yes. I want to read the summary, and I want you to react to it.

> The Office of Inspector General concludes that the proposed reorganization of the OCSE Unit Audit Function is in direct violation of government auditing standards. This violation is so egregious that we will be compelled to advise the Secretary that this matter is a material internal control weakness and must be reported to the President and to the Congress under A-123 process.
>
> A further obligation has already been created to report auditing standards violations to the Controller General. Accordingly, OIG does not concur with the proposed reorganization of OCSE Audit Function, and must register our firm opposition to the action.

Now, this is the memorandum that apparently the Inspector General sent around that you just made reference to?

Mr. Stanton. Yes, sir. Let me comment further about that, if I may, Mr. Chairman.

Acting Chairman Downey. Sure.

Mr. Stanton. I replied in writing to that. I shared this matter with the Secretary, and he offered no objection whatsoever to the move and my actions. I subsequently, some weeks later, had a personal discussion with the Inspector General about this matter.

At no time did he ever complain to me that there was any fault with the move. He did complain to me, and I put this as a matter of record to the Secretary, that my auditors were inefficient and didn't know what they were doing, and he wanted to take control of the auditors.

He also said that he wanted the authority and the opportunity to review all of the auditors' findings subsequently, so he could see if they were adequate and appropriate.

Following this discussion, I also went to my audit staff to discuss this issue further. I have the Acting Director of our Audit Division here today. I would encourage you to ask him questions, if you wish to do so.

He tells me that we are in full compliance with all provisions of the GAO standards. I believe I have always been in full conformity to all the GAO standards, and I would challenge the Inspector General to prove differently, as I asked him to do in a letter that I sent to him.

Acting Chairman Downey. What I am concerned about is how the members of this subcommittee and the Congress can be assured of the impartial audits if the Director of OCSE places limits, as you have done, on where auditors can review records, what auditors can examine to make their judgements, and from whom auditors can obtain information.

Am I incorrect as to whether or not you have placed these restrictions on these people?

Mr. STANTON. Let's take them one at a time, Mr. Chairman, in case I overlook one of the issues.

Acting Chairman DOWNEY. Where can auditors review records? Why don't we do that first?

Mr. STANTON. They have absolute authority at this time, and have at all times, to review any record they wish to review. There has never been a restriction placed on that point. And the Acting Audit Division Director is here to testify to that.

Acting Chairman DOWNEY. Well, apparently we have some disagreement as to whether or not this is the case.

Mr. STANTON. I don't know if the Inspector General said that, or some disgruntled person said that to you. And I think there is a difference.

Acting Chairman DOWNEY. Let me ask you about what auditors can examine to make their judgements.

Mr. STANTON. They can examine all records that the State or locale may have with respect to a child support case.

Acting Chairman DOWNEY. And who auditors can obtain information from. Do they have access to everyone?

Mr. STANTON. They have access to everyone and every record. Now, what I have done, Mr. Chairman, is this. I don't want to appear to be circumventing your question at all.

I have asked all the States to send a registry of their cases to a central place where we can review them. And from the registry we randomly select cases that we wish to examine in detail. This is basically the same process that we did before, examining randomly selected cases.

We have asked the States to send those materials to a central location, principally to make it so that our auditors don't have to run around every county—and to shorten their working time so they can accomplish more with better results.

And it appeared to me that it was not the auditors' job to run around opening up file drawers and so forth, but to ask to have cases presented to them for their review.

Our auditors also run checks to see that the State has not manipulated those records. And any time they feel the State has manipulated or in any way affected the case record, the auditors have free reign to go to the county, go to the file drawers, or talk with anyone they wish, to substantiate whatever their feelings are about that case.

Acting Chairman DOWNEY. Let me see if I understand this. You want all the case files in one central location.

Mr. STANTON. No, I didn't say that. I said the listing, the registry listing the cases, in one location.

Acting Chairman DOWNEY. How long do you think that will take? Is that something that is going to take time away from possible other activities?

Mr. STANTON. Not at all if there are computerization systems and central registries. We published a regulation last week, Mr. Chairman, that requires a central registry of all interstate cases, for example.

Acting Chairman DOWNEY. How many States, for instance, are computerized, and capable of doing this work?

Mr. STANTON. A recent study showed more than——

Acting Chairman DOWNEY. More than half of the States?

Mr. STANTON. Well, can I answer your question this way? Recently, a survey was done by an agency not associated with my agency that made an inquiry of all the State administrators to find out how many could readily provide this information. Half of them said they could readily provide casefiles without any difficulty.

We have been doing some audits in States now and asked them to do this. No State has refused to comply with our request. So I am making the assumption that all States can do it, and I do not anticipate—if they have a computer system, that there will be any time taken away from other tasks. It would simply be running a tape on the cases which they had.

Acting Chairman DOWNEY. Well, Mr. Brown hands me a statement from the State of South Carolina:

> In relation to the requirement that the State provide a listing of its entire caseloads as of January 1, 1987, at this time in South Carolina, compliance with this requirement is a virtual impossibility. This manual process would bring our operation practically to a standstill.

Louisiana:

> The changes are unfair and put an undue hardship on the States.

Pennsylvania:

> It is not possible or practical for Philadelphia Family Court to forward a complete list of our entire 4D caseload, including closing and inactive cases. To attempt to refer all cases would require photocopying thousands of referral documents which have accumulated over the last few years. This represents an exercise in futility.

Washington State:

> The procedure requirements would place an unbearable management burden on the States.

North Carolina:

> The 4D audit will degenerate to just another superficial records check, which is more concerned with record content than with actual results.

Do you want me to read some more?

Mr. STANTON. No, no. I will be happy to respond.

Acting Chairman DOWNEY. Okay.

Mr. STANTON. I will be happy to respond, first of all, by saying that South Carolina has complied with our request. So their comment, Mr. Chairman, is inaccurate and inappropriate. Their program has not collapsed. They provided the assistance.

With respect to Pennsylvania and Philadelphia specifically, I have talked to Judge Cypriani, the chief presiding judge in Philadelphia, many times. At no time has he ever mentioned any problem.

And I would say this. I have had four meetings with Pennsylvania staff in the last year in their State. At no time has anyone from Philadelphia or the State complained to me personally about this subject.

Neither has Washington State complained to me, and I have had several meetings with Jules Sugarman, the head of the State operations.

Acting Chairman Downey. Well, one of the concerns is that it appears that they have to complain to you to get your attention on some of these matters.

I could read some others. Louisiana, Alabama, Washington, and North Carolina are all here as part of this——

Mr. Stanton. I met with North Carolina, too. I had at least two or three meetings with the secretary of the State agency. And I would just say this, at no time have any of these agencies ever mentioned to me, that I am aware of, any problem in this regard.

Acting Chairman Downey. They seem to have complained to everybody but you. [Laughter.]

Mr. Stanton. That is unfortunate, isn't it? That is terribly unfortunate.

And I really challenge, Mr. Chairman, the accuracy of saying they have complained if they haven't complained to me at any of these meetings. They know I am the Director of Child Support Enforcement.

Acting Chairman Downey. I want to get back to this question before you raised about wearing two hats, because I want to develop that at least in one respect.

Don't you think OCSE Director should be a separate person? I mean, can you do both of these jobs well, Family Assistance and OCSE?

Mr. Stanton. Mr. Chairman, I am going to answer your question pretentiously. But I will say this, that I have run Child Support ever since it was first begun. I set up the system in Indiana. I set up the first on-line computerized, state-of-the-art system in child support in this Nation.

I am intimately familiar with all the details of child support. I am also familiar with all the public welfare laws and the programs of public welfare, including AFDC.

You are going to have a hell of a hard time finding someone who knows more about child support than I do.

Acting Chairman Downey. Well, I don't doubt your wisdom. What I doubt—or your experience—is the fact that these positions conceivably could be better done with people focusing their attention on OCSE and Family Assistance separately.

You know, even Larry Byrd, to use a basketball example, as wonderful a player as he is, does need his supporting four other players around him. And it seems to me that in this instance, I am only speaking for myself here, having both of these positions under one directorship, has led to at least, whether or not you feel satisfied with everything, we do not——

Mr. Stanton. Mr. Chairman, could I interrupt you by saying this.

Acting Chairman Downey. Certainly.

Mr. Stanton. I asked my associate, Mr. Bob Harris, to come up here last week.

Acting Chairman Downey. He testified very ably.

Mr. Stanton. I work very closely with him—and you can ask him if I do or not.

Acting Chairman Downey. Are you his boss?

Mr. Stanton. I am his boss. Yes, I am.

Acting Chairman **Downey**. I doubt that if we ask him, he would be objective. [Laughter.]

Mr. **Stanton**. You ask him.

I also told you in a letter that he was a civil service employee, and if he made comments to Congress, they would be immune from any point of criticism. And no one has ever challenged my ethics, Mr. Chairman.

Acting Chairman **Downey**. Nor do we.

Mr. **Stanton**. And I would say this, too, about the single Head of Child Support. Before this agency was structured as it is now, the Commissioner of Social Security also wore two hats, as the Director of Child Support.

Acting Chairman **Downey**. Whether historically it has or hasn't been is of less interest to us than where we go from here.

Let me ask several other questions, and then I will have the subcommittee ask some questions as well.

A number of witnesses have appeared before this subcommittee and suggested that OCSE has failed to monitor compliance effectively with the child support statute. How would you react to their allegations?

Mr. **Stanton**. I would say that their comments are unfounded. I would first of all cite the evidence.

Since I have been on this job, I have never overruled a single audit finding. For every audit that found a State not being in conformity, I have assessed a penalty. I have assessed a penalty against 32 States in this Nation for noncompliance with child support requirements. I guess that answers the question entirely.

I would add, more States have been examined and a few States have passed the audit. But every one of those States that did not pass the audit has gotten a penalty letter from me, and I have circulated those letters to high officials in each State. Such high officials that child support people have often complained to me saying that, I was embarrassing them by showing this type of material to other officials in the State.

Acting Chairman **Downey**. Does OCSE regularly check what a State is actually doing what it claims to do in its State plan?

Mr. **Stanton**. I believe so. I have complete confidence in the integrity of our auditors, and I have no reason ever to think differently. Neither do I question the integrity and the competency of our program people that regularly go to States to examine the program.

In addition to audits, I have had program reviews done on child support in most States, in order to point out any defective program components that they might have, and urge them to correct those problem areas.

Acting Chairman **Downey**. The reason I ask you this, Mr. Stanton, is that we were told by some advocates that they had asked OCSE to survey States, and learned that some of them hadn't publicized their child support services, even though the State plan said that they had.

Mr. **Stanton**. Mr. Chairman, that is possible. I indicated in my testimony that I am not at all satisfied with the States' performance in child support. Don't ever think I am.

There is no State that is doing an adequate job in child support. And many State child support people and the State leadership are looking for excuses for their noncompliance. And as I said in my testimony, I am in favor of aggressively acknowledging those that are doing a good job and those that are not, as I have been doing in the past.

I think that the advocacy groups have reason to complain. There are many areas of the Nation where non-AFDC people are not receiving proper attention in having their support orders taken care of.

Many States will tell you, however, and I believe them, that their legislatures have been reluctant to provide them with adequate staff. This has been a big concern, about which I have been taking drastic action.

I have written to every single Governor in this Nation at least two times about this issue. And the National Governors' Association, which is under a contract with us, has provided literature to all the Governors to emphasize the benefits of child support to the States.

And I don't know what more we could do. In fact, I would encourage you, as I indicated in my testimony, to publish a report card on States. And I will endorse it, and provide you with the information, and guarantee the accuracy of the information, too.

Acting Chairman DOWNEY. Mr. Stanton, first let me say that I appreciate that. I have communicated already with Senator Moynihan, and we will be producing a document together. We certainly welcome your input.

I want to distinguish between what you said about the States doing an adequate job, because we both admit that they are not, and they need to do a better job, and what the Federal Government can do to help them to do a better job, or to browbeat them, to cajole them, or to punish them.

What concerned me, when the advocates testified here before, was that your office just didn't know, until they brought it to your attention, that the States were saying one thing in their plan and doing something entirely different in practice. And this comes back to the point that I made to you before about wearing both hats.

Again, it is not so much a question of doubting your credentials. It is simply a question of whether or not the focus and the attention that Congress wants on this subject is served by your attempting to do both things.

I want to impress that upon you as strongly as I can. I am not satisfied with the current system. And I suspect my colleagues are not, either.

Mr. STANTON. Mr. Chairman, can I respond to that in this way.

Acting Chairman DOWNEY. Yes, go right ahead.

Mr. STANTON. The best way to respond to that is to describe what I've done with the organization.

Since I've been in FSA, I've reduced the staff by 12 percent. And yet I've increased the staff in child support by 10 percent, while taking away some of the mundane functions to make it possible for them to focus on child support implementation. I've increased the staff in child support dramatically.

I happened to be the regional director in Chicago for HHS for 4 years before I came on this job. In Chicago, we had 65 people working in AFDC. You know how many that we had working in child support? Seven. I've dramatically changed this relationship around the Nation. I've transferred people out of AFDC into child support in order to beef up the operation.

And I would say in response to the advocates, that the States don't always do everything they're told. Their complaints could be true. We don't know everything. People don't regularly contact us with every complaint they have. I hear lots of complaints and I believe them unless I have reason to believe otherwise.

Acting Chairman DOWNEY. I would like the States to look at you as Captain Bligh when it comes to their not doing their job. And I'm not sure they do yet.

Mr. STANTON. Mr. Chairman, the States do now look at me as Captain Bligh. Believe me. [Laughter.]

Believe me. I am one unpopular individual with child support people in the States because I am giving them a hard time. You ask them if Stanton doesn't give them a hard time.

Acting Chairman DOWNEY. We'll do that.

Let me ask one question about computer services and then I'm going to turn the inquiries over to Mr. Brown.

Your testimony notes that computers are essential to an effective child support enforcement program. And Congress first encouraged computer development in 1980 when we enacted 90-percent Federal matching funds for these costs.

Now, what I would like to know is when HHS issued regulations and guidelines to States on the use of these funds. Can you give me a chronology?

Mr. STANTON. No, I can't. If I could refer that to——

Acting Chairman DOWNEY. Well, I'll be happy to read it. I don't like to ask questions unless I know the answer.

Mr. STANTON. We'll be happy to submit to you the information.

[The information of Mr. Stanton follows:]

## FORMAL AUTOMATED SYSTEMS RELATED GUIDANCE PROVIDED TO STATES

December 1980

Office of Child Support Enforcement Fourth Annual Information Systems Workshop; Dallas, Texas

July 1981

Office of Child Support Enforcement Forum; 90 Percent Federal Funding for IV-D Program Advance Planning Documents; Washington, D.C.

September 1981

State Plan Amendments for 90 Percent Match Rate for Computer Systems and for Withholding of Unemployment Compensation Letter to Regional Representatives for distribution to States

October 1981

Systems Development and Performance Review Guide Parts 1 and 2; To Assist With the Review of Systems Funded at the 90 Percent Federal Financial Participation Rate

October 1981

Advance Planning Document Guidance Manual for Automated Child Support Enforcement Systems to Assist States in Preparing APD's

October 1981

Advance Planning Document Review Guide for the Review of Advance Planning Document for 90 Percent Systems

October 1981

Program Administrative Guidelines for Administering the 90 Percent Federal Financial Participation Program

October 1981

Program Procedures Guide for 90 Percent Federal Financial Participation

October 1981

Computerized Child Support Enforcement Systems; Interim Final Regulation Implementing Provisions of Public Law 96-265 for Enhanced Federal Funding

December 1983

The Central Registry/Clearinghouse; A Tool for Improving the Child Support Enforcement Program

April 1983

Revised Advance Planning Document; Guidance Manual for Automated Child Support Enforcement Systems

September 1983

Guideline for Conducting a Cost/Benefit Analysis for the Development or Enhancement of a Computerized Child Support Enforcement (CSE) System
OCSE-IM-83-5

March 1984

Office of Child Support Enforcement; Fifth National Information Systems Conference; Dallas, Texas

June 1984

Office of Child Support Enforcement; Mini Systems Conference; Santa Barbara, California

August 1984

Computerized Support Enforcement Systems
45 CFR Parts 302,303, 304, and 307

December 1984

Instructions for Obtaining 90 Percent Federal Financial Participation (FFP) for Computer Hardware Acquisitions and Development of Income Withholding and Other Provisions of P. L. 98-378 Relating to the Design, Development, Implementation, Enhancement and Operation of Comprehensive Statewide Automated Child Support Enforcement Systems
OCSE-AT-84-14

May 1985

Child Support Enforcement Program; Implementation of Amendments
Final Rule
45 CFR Parts 301,302, 303, 304, 305, and 307

June 1985

Office of Child Support Enforcement; Sixth National Information Systems Workshop; San Francisco, California

August 1985

Child Support Enforcement Program; Implementation of Child Support Enforcement Amendments of 1984 - Corrections
OCSE-AT-85-12

May 1986

Office of Child Support Enforcement; Seventh National Information Systems Workshop; Denver, Colorado

December 1986

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation
45 CFR Parts 95,205, and 307

July 1987

Computer Maintenance Cost Reimbursement for Operational Child Support Enforcement (CSE) Systems
OCSE-AT-87-4

September 1987

Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation
45 CFR Parts 95,205, and 307

October 1987

Revised Guideline for States Seeking Enhanced Funding
OCSE-AT-87-11

February 1988

OCSE Provisions of Services in Interstate IV-D Cases; Final Rule
45 CFR Parts 301, 302, 303 and 305

Acting Chairman **Downey**. It's taken 6 years for HHS to give the States instructions about these funds. HHS proposed interim regulations in 1981, final regulations in 1984, and guidelines on conditions for receiving Federal funds in 1986.

Frankly, we are concerned that this has taken too long, and that the computers haven't been available because the funds haven't been forthcoming until recently.

Mr. **Stanton**. Mr. Chairman, we've not denied any State because we didn't have funds. Anyone who says that is simply misinforming this committee.

I indicated to you in my written testimony that we've committed, $120 million in this program. We've denied some States because they haven't made proper proposals, and they haven't utilized the state of the art now available around the Nation.

And I'm opposed to simply reinventing the same thing over and over in every State and paying consultants a bunch of money when I've already paid them to do exactly the same thing some place else.

Acting Chairman **Downey**. It's hard for us to assume that the States are going to do the right thing unless the States know what they are doing.

Mr. **Stanton**. And I would make this observation.

In May of 1986, I gave a speech in Denver, Colo., to several hundred child support people. I later gave a copy of my speech to every child welfare department in the Nation and it detailed precisely the points that you've claimed I didn't do.

Acting Chairman **Downey**. The speech at Denver, is that a substitute for a regular use of computers?

Mr. **Stanton**. Not at all. I didn't intend it to be either. It was a further elucidation of practices and principles—where we're going and why we're going there.

And I'll say this, Mr. Chairman. I never had any complaints about that process. I've had some complaints because we didn't let States do everything they wanted to do in this program.

But I would invite you or any of your officials to look at what we've done in this area. I'd be happy to share with you what we've done, and we could look at individual cases or States.

I'm convinced that our actions have been objective. I don't think we've made any arbitrary, capricious decisions in this area.

Acting Chairman **Downey**. Thank you, Mr. Stanton.

Mr. Brown.

Mr. **Brown**. Thank you, Mr. Chairman. I just feel privileged to be here at this historic occasion.

As near as I can calculate, this is the first time in the history of the Republic that someone who's been questioned by a congressional committee has wanted to be thought of as Captain Bligh. [Laughter.]

Mr. **Stanton**. I only think that because I have a job to do. And I take my job very seriously.

Having been in this business for almost 30 years, I really think we need to do something about preventing dependency. And this is the program that can do that. And I take very seriously trying to get all the States to fully implement this program in my limited time with the Federal Government.

Mr. BROWN. Well, I think that dedication comes through in your answers this morning.

I would appreciate your helping clarify a point that came up earlier.

You mentioned an opinion from the HHS Inspector General about your new audit procedures and we've been in touch with his office and gotten some information as well.

Can you tell me whether the IG conducted an audit? Did his office conduct an audit of your operations?

Mr. STANTON. Never to my knowledge.

Mr. BROWN. How is it that he's expressing an opinion on the conduct of your operations if he hasn't done a specific audit of your operation?

Mr. STANTON. He can't. One disgruntled employee went to his office and complained. The basis of that he wrote a report to the Secretary and to me raising the points that Mr. Downey, the chairman, raised earlier. And I responded to that appropriately.

Mr. BROWN. But the IG's letter that Mr. Downey used was not based on a separate audit and was written and sent without your being allowed to respond to his criticisms?

Mr. STANTON. Yes, it was. He didn't conduct an audit. He simply listened to what somebody was saying and made conclusions from that conversation with one individual.

Mr. BROWN. That's helpful to me.

You mentioned earlier that 32 States had been penalized for their failure to comply with regulations.

Mr. STANTON. That's right.

Mr. BROWN. We'd been given some information that no State had been fined.

Now, is that accurate? Have the fines been suspended? What are the facts here?

Mr. STANTON. Both statements are correct, and let me say why.

I sent penalty letters to the States. I officially assigned the penalty to the State as 1 percent of their AFDC Federal reimbursement, as the law provides. The law provides for a graduated penalty of 1 to 5 percent, the first failure causing a 1 to 2 percent penalty graduating up to 5 percent for three consecutive failures.

The law also provides that the State has an opportunity to file a corrective action plan and to implement that corrective action plan before an actual money amount can be withheld from the State. Every State has filed a corrective action plan, And we approved the corrective action plans. We gave them up to 1 year to do everything they said they were going to do.

And that's exactly what the law requires me to do before I can take a penalty.

Mr. BROWN. So the failure for fines to be extracted is not a function of you turning into Fletcher Christian.

Mr. STANTON. That's correct. [Laughter.]

Mr. BROWN. Okay. We have been advised that you now have 62 auditors and 5 clerical staff as compared with 104 auditors and 17 clerical staff 3 years ago.

I would appreciate knowing if those figures are roughly correct. If they are in the ballpark, help me understand why the auditing staff has been cut in light of the fact that the auditing criteria have been expanded.

Mr. STANTON. Would you repeat those numbers?

Mr. BROWN. Well, what we have been given was 62 auditors and 5 clerical staff presently as compared with 104 auditors and 17 clerical staff 3 years ago.

I think the concern would be that the auditing staff has been cut at a time when the scope of audits have been expanded.

Mr. STANTON. Okay. There were about 120 auditors in 1979. So the problem is worse than you would think it is by your data.

There was a hiring freeze put on in 1985, which we followed. I authorized personally, and it's a matter of record, to hire 18 new employees in audit just a short time back. We are in the process of hiring 18 or 20 new auditors at this time. That would bring our number up to about 90 audit staff. I don't have any reason to doubt your figure of 62. I think it's probably in the ball park of what we have at the present time.

And that's one reason, Mr. Congressman, why I tried to change the audit procedures in the States so that auditors did not go to every locale within a State. We were spending 2 or 3 man-years in a single State to do an audit. And it took a long time.

The 1984 amendments and the penalties that I have given, require yearly audits. You know, if I assess a penalty I've got to go back and audit within a year. So, I had to find a method of speeding up the process. One way of speeding up the process was the implementation of the new system that I talked about, having the States give me a case registry, and then drawing random cases and having the State provide a copy of those cases. We'll examine those cases without going to every place in that State.

Mr. BROWN. I can appreciate that, and I don't hold myself out as an expert on auditing. But my recollection is that a critical ingredient of performing a valid audit is to ensure that you have a full base for your sample selection, and that the records on which the audit is based are not manipulated or changed or adjusted.

Are you concerned that your system may well permit States to adjust records that have been selected for audits, or that you may not get a good sample?

Mr. STANTON. Mr. Brown, our procedures about supplying the case record are no different than before. Before we selected the cases and asked the States to bring forth the records. They had ample time to modify the records if they were so inclined.

But I think they haven't been modified. If they were modified, the error rate would not be what it was, and noncompliance with the audit wouldn't be what it was. If the States have modified the records they've done a poor job.

Mr. BROWN. Thank you.

Mr. Chairman, on that, I'll yield back.

Acting Chairman DOWNEY. Mr. Donnelly.

Mr. DONNELLY. Mr. Stanton, I have two basic questions to ask you. I don't want to get into fighting with your employees.

Does the administration support a Federal mandatory presumptive wage withholding law?

Mr. STANTON. Yes, sir.

Mr. DONNELLY. Would they support the continuation of a 70 percent match if that law was passed?

Mr. STANTON. I don't have the authority to comment on that. But we presently fund 68 percent, and 2 percent is not that big a difference. However, I can't make any commitment on the part of financing for this administration.

Mr. DONNELLY. Who can if you can't?

Mr. STANTON. Oh, I think you'd have to ask the Secretary, you'd have to ask OMB, you'd have to ask some other people other than Wayne Stanton.

Mr. DONNELLY. You state on page 2 of your testimony that we've collected $4 billion this year in child support, an increase of $800 million, and that you have a goal to increase that by an additional billion dollars, up to $5 billion in the next fiscal year.

How much of that $800 million increase is attributable to the IRS Offset Program, and also States that have wage attachment laws?

Mr. STANTON. Quite a bit of it is attributable to the tax offset because we've been emphasizing to the States the importance of using tax offset for more than a year. It's the quickest, easiest, cheapest way to increase money coming into the support system.

For $5, it would get 40 percent of their cases 500 and some dollars. States have increased their utilization of it quite a bit.

Now, with respect to the other savings, many States, including yours, are doing a good job in improving their activities and their collections by the wage withholding provisions. I'm expecting also great things to happen out-of-the Revenue Department which is taking over this program in your State.

It was a tougher job than they thought it would be. They're setting up now to operate, and I think they're going to do a good job. You're going to see tremendous improvements. It's partly because of Massachusetts' increases that I feel confident we'll increase the collections a billion dollars this year.

Mr. DONNELLY. You keep it up, we might keep you on in the new administration. [Laughter.]

Mr. STANTON. I think, Mr. Donnelly, the potential is several billions of dollars. We haven't even begun yet. I'm disappointed that this program has been around for 10 years and was only collecting $3 billion or less when I came on the scene. We can do a lot better. We can collect $5 billion this year, and I would think more than a billion dollar increase each year, thereafter.

I would say 25-percent increase a year is not an unreasonable increase.

Mr. DONNELLY. But you have no percentage on that $800 million increase of what would come from the IRS offset versus——

Mr. STANTON. No, I don't. I think I could get it for you. Mr. Harris over here might be able to tell me.

Mr. DONNELLY. I see he's handing you notes. I didn't know if he had the answer.

Mr. HARRIS. About $40 million of it is increases from the IRS offset. It's largely wage withholding.

Mr. DONNELLY. It's largely wage withholding.

Forty million, so 5 percent of the $800 million increase is the IRS offset, and 95 percent is wage withholding?

Mr. HARRIS. It may not be 95 percent from wage withholding

Mr. DONNELLY. But the point I'm getting to is immediate attachment of wages, no 30-day wait. After the parties litigate and the court orders, then it's presumptive, that the parent—the father in 99.9 percent of the cases—has garnisheed from his paycheck on a weekly or monthly basis, whatever, a certain amount of specific dollars to pay for the support of his child. And the administration has endorsed that.

Mr. HARRIS. Yes, they have.

Mr. DONNELLY. Thank you, Mr. Chairman.

Acting Chairman DOWNEY. Mr. Pease.

Mr. PEASE. Thank you very much, Mr. Chairman.

Sir, I've enjoyed your testimony and your defense against any complaints brought against you. Most vigorous I would say.

I just wanted to clear up a couple of things.

One, in terms of your reorganization plan, has the staff that was in Rockville physically been moved to D.C. or not?

Mr. STANTON. Yes, they have.

Mr. PEASE. In relation to your——

Mr. STANTON. They were moved about a year ago, March 1987.

Mr. PEASE. Okay. In relation to your holding two positions, wearing two hats as it were, are you paid twice as much for holding those two positions? [Laughter.]

Mr. STANTON. I think I'd have to get twice as much to make a living on these salaries you people set for us.

Mr. PEASE. I would agree with that as a matter of fact.

Mr. STANTON. I'm being facetious. I get only one salary. I don't even get double expenses.

Mr. PEASE. What is the reason why you choose to hold both positions rather than hiring somebody else?

Mr. STANTON. To make sure that there is complete coordination between child support and AFDC. Their cause and effect relationships are integrally related. Someone must bring these programs together, and make each appreciate the other's role.

And that's why I want child support people doing interviews in the AFDC environment. And I stress with the AFDC people that it's a Federal law that the mother making application for AFDC is obliged, as a condition of eligibility, to identify the father and help in finding and locating him.

These programs must work together. For them to work independently is just going to continue the problem of over 90 percent of all the people being on welfare because of divorce, desertion or out-of-wedlock births. We've got to do something about solving the basic causal factors of dependency, and that's these two programs working together.

Mr. PEASE. In your two positions, do you have two offices?

Mr. STANTON. No, I have one office. The other office is right across the street from me. And Mr. Harris and other people over there in child support are within 2 minutes of my call. And pretty soon we'll be in the same building.

Mr. Pease, I have communications and conversations with Mr. Harris and other members of that staff several times every week, that's several times every week. This is not a once in awhile kind of relationship.

I think my testimony shows that I have a complete commitment to child support, and I work regularly in child support.

Mr. **Pease**. Well, to follow up on your point, if I were an administrator and wanted to make sure that there was a coordination of policies within two divisions under my authority, I would appoint two people to be in charge of those two divisions and make it crystal clear to them what I wanted. If they didn't do what I wanted, I'd get somebody else. Why would you not do that in your position?

Mr. **Stanton**. I've done that.

Mr. **Pease**. But you haven't named anybody to head up the Child Support Enforcement Division.

Mr. **Stanton**. Well, I think, Mr. Pease, I would reiterate that this is not the first time since the inception of child support that a person wearing two hats has been in charge of child support.

This is nothing new. The Commissioner of Social Security did exactly the same thing, and I would assure you the Commissioner of Social Security didn't have anywhere near the attention and dedication to child support that I have.

Mr. **Pease**. As we propose a bill, which we will, to modify child support enforcement statutes, would you advise us the statutory require the same person to hold both positions?

Mr. **Stanton**. Yes, I certainly would.

Mr. **Pease**. Do you think it's a good permanent arrangement?

Mr. **Stanton**. It's the only way. You must guarantee absolute coordination and working together of these two programs.

They have always been under the overall supervision of the Secretary of HHS, but it requires a closer relationship than that throughout the Nation. And I think, because we've had an isolation of these two programs in the past, that we have the present problems in AFDC.

I think many of the problems in AFDC could have been averted. I was one of those people who used to write to Senator Russell Long years ago about doing something in reform of welfare—that was to do something in child support. I appreciated Senator Russell Long for initiating the child support enforcement program.

Mr. **Pease**. I see.

I'd like to turn for a moment to improving interstate enforcement.

The 1984 amendments authorized funding for interstate demonstration projects. Will you tell us where the demonstration projects currently are being conducted and what you expect to get out of those projects?

Mr. **Stanton**. I think we have 15 at the present time. We have one in the New England area in Maine and New Hampshire, with the State Street Bank in Boston as the central depository.

We have the eight States in the Atlanta region that are all involved in another project. We have another demonstration project involving Chicago, Illinois, parts of Michigan and parts of Indiana. We have another project out of Kansas City. We also have a project in the Northwest region. That's where some of them are.

What I expect to get out of these is information that will help us develop a national network using a satellite that brings all 50 States together so we're free to exchange information about all kinds of cases. I'm learning from these projects about location, case management, and development of systems for on-line activity with employment security divisions, bureau of motor vehicles, et cetera.

We are picking the best parts of these projects to develop a national system which we expect to issue an RFP for this summer. We have the money to fund it this year.

Mr. PEASE. I see.

Mr. STANTON. Mr. Pease, may I make a further comment?

Mr. PEASE. Surely.

Mr. STANTON. With respect to URESA, I would like the record to show that we've already done what the previous person that testified here suggested. I worked with judges, lawyers, prosecutors, and all the people interested in this. We developed published and distributed several months ago a single form to be used by all States in URESA matters. It handles every possible facet of URESA considerations and everyone is requested to use the same form—so you'll find the same information on page 9 every place in the Nation. I spent a few hundred thousand dollars to develop and print that form and freely distribute it.

Mr. PEASE. Okay. Does the 1989 budget of the President request funds for any additional or continued demonstration projects in fiscal 1989?

Mr. STANTON. I think we have about $5 or $6 million left over from previous years. We have an additional $3 million in the budget to develop the system that I talked about earlier. We continue to have the funds for the 90 percent enhanced funding, and the regular 68 percent funding. In a couple of years this will drop to 66 percent as authorized by Congress.

Mr. PEASE. Okay. On page 14 of your testimony, you indicate that you have dramatically improved State capabilities for exchanging interstate information.

Could you tell us some of the things you've done to have achieved this dramatic improvement?

Mr. STANTON. What we've done are the projects I talked about earlier. Those projects probably involve about 39 States that have the freedom now to exchange data using computers.

Also I have added more staff to the handling of the Federal Parent Locator Service. I added staff not just to work in the area of manning computers, but matching records where the States don't have Social Security numbers, matching people by name, address, et cetera, so we can provide the States with the Social Security numbers where we make a match.

We've also published, just this last week, new interstate regulations for dealing with this very subject.

Mr. PEASE. How is the department aware of the interstate communication that does go on so that you'd know whether it was improved or not?

If Ohio communicates with Kentucky or Illinois or Wisconsin, do you listen in? Do you have a monitoring device or something?

Mr. STANTON. Mr. Pease, let me say this, the communication among States is good and bad. In some States, and I have a feeling that you'll hear testimony this morning that suggests this, the interfacing of information is pretty bad.

There are some parts of the Nation where people refer cases and it's just like they're dropped off the face of the Earth. Nothing happens. And Washington, DC is one of these worst places in the Nation. And there are other States where things don't happen.

Now, I'll let those people explain why they don't happen. I think that'll be the best answer to your question.

Mr. PEASE. One final question.

Your testimony suggests that the future of the program depends on two things: careful and complete implementation of the current statute, and continued emphasis on the importance of child support by you and others.

I note that there is no role in there for this committee passing additional legislation. Are you trying to run us out of business?

Mr. STANTON. No, no.

Mr. PEASE. Can you think of other things to do, changes in the law?

Mr. STANTON. Mr. Chairman, I did make some comments in my oral testimony this morning about additional legislation that I would support. I would encourage you to review my testimony for the areas I suggested I would join with you in supporting.

Now, if you ask me for other ideas on where we can do better in child support, I would have the following suggestions.

First of all, we need your help in establishing and in enforcing State leadership and State commitment to this program. That is lacking in many places throughout this Nation.

I've talked to Governors, I've written to Governors, and I indicated in my testimony all the people I've met with. But we still have an absence of State commitment to child support—putting up their own funds.

I've been asking them, for example, to transfer staff from AFDC because to child support in some States they go to extremes.

Oklahoma has a caseload of 29 cases per AFDC worker. They have 1,270 cases per worker in child support. I specifically asked Oklahoma, orally and in front of all the supervisory staff, to transfer staff from AFDC to child support where they're really needed. And I have talked to all States just about that same issue. And I've provided you with information today that will show you exactly what the ratios are of AFDC staff and child support staff in every State.

Most States have enough staff now if they would properly assign the staff to do the work. And I've encouraged them to make those switches. They're all generally under the same umbrella operation in the States, and so I think they ought to do those kinds of things.

Mr. PEASE. All right. Thank you very much. I appreciate it.

Acting Chairman DOWNEY. Mr. Stanton, you have been an engaging witness.

Mr. STANTON. Thank you.

Acting Chairman DOWNEY. I want to reiterate some of the points that I made to you very briefly. They don't require comment, but certainly if you want to make one, you may.

We have critical information about your agency, as a result of questions and inquiries that we have put to you, the auditors in the Inspector General's report to us, and the testimony that we have and are about to receive from States and from advocates.

Certainly you've given ample testimony here for us to review the record in trying to compare what has been said, what you have said, and what in fact is reality. We will do that.

Your testimony is further that the Inspector General's report was based on the evidence of a disgruntled employee.

Mr. STANTON. Yes, I stand behind that.

Acting Chairman DOWNEY. All right. We will certainly ask for corroboration of that.

I hope further that someone from your staff or yourself will be available to listen to the individuals we're about to call who will bear witness to some of the things you've said and other things from their perspective on the States.

Mr. STANTON. I have staff here who will report to me exactly what is said.

Acting Chairman DOWNEY. That is fine. I'm not satisfied that the history is that you wear two hats. I don't know what the history has been. From my perspective, the history has been bad and needs to change.

Second, I am not at all confident that we have the child support version of Club Med, that there are no problems here, that there are only solutions. I think we have problems here.

When we're finished with our hearings, we're going to list a series of recommendations to you that I hope you will respond to, and that we can work together on because we are in this business together. We want to see the States do a better job, but we also want to see the Federal Government do a better job.

Thank you, Mr. Stanton.

Mr. STANTON. Mr. Chairman and members of the committee, I appreciate the opportunity to be here this morning to testify.

[Subsequent to this hearing, the subcommittee solicited answers to questions contained in letters directed to Wayne Stanton, Director, Office of Child Support Enforcement, and Richard Kusserow, Inspector General, U.S. Department of Health and Human Services; and Charles Bowsher, Comptroller General of the United States. Those letters and answers follow:]

HAROLD FORD, TENNESSEE, CHAIRMAN
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AND UNEMPLOYMENT COMPENSATION

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COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

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A.L. SINGLETON, MINORITY CHIEF OF STAFF
RONALD T. HASKINS, SUBCOMMITTEE MINORITY

March 16, 1988

Mr. Wayne A. Stanton, Director
Office of Child Support Enforcement
U.S. Department of Health
and Human Services
Room 5600, North Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Stanton:

The Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means has now completed its child support enforcement hearings. We write to thank you for your testimony about the status of the program and to request your response to several additional questions. A copy of our questions is enclosed.

We also want you to know that we have asked the General Accounting Office (GAO) to review the new OCSE audit procedures to determine whether they comply with "GAO Standards for Audit of Governmental Organizations, Programs, Activities, and Functions." In addition, we have solicited, for the record, the views of the Department of Health and Human Services Inspector General on the OCSE reorganization. A copy of our letters to the Comptroller General and the Inspector General are enclosed.

Since this letter, and your response to our questions, will be printed in the record of the hearing, we ask that you respond within 45 days. If you should have any questions or need additional information, please contact the Subcommittee staff at 225-1025.

We appreciate your strong support for the Child Support Enforcement program and look forward to your response.

Sincerely yours,

Thomas J. Downey
Acting Chairman

Hank
Hank Brown
Ranking Minority Member

Enclosures: GAO Letter
Kusserow Letter

Subcommittee on Public Assistance
and Unemployment Compensation

ADDITIONAL QUESTIONS FOR THE RECORD
Wayne Stanton, Director
HHS Office of Child Support Enforcement

## General Questions

1. During the hearing, the Subcommittee asked that you supply an organizational chart for the Office of Family Assistance and its subunits. The chart should show the national and regional offices and indicate, by name, the individuals who are wearing "two hats." For each individual with dual responsibilities, please indicate how the salary is allocated by program responsibilities.

2. In your testimony, you noted that HHS has encouraged States to use the IRS tax refund offset program because it is an effective collection tool. To what extent have you permitted States to require a separate application form for the IRS offset. What is the purpose of such an application? On what authority have you done so? Which States require a separate application for the IRS intercept? How has this affected the number of cases selected for intercept?

3. The Subcommittee has heard testimony about States that have been negligent in implementing the 1984 amendments. Section 452(a) provides the Federal office with broad authority to set specific requirements for State programs, and Section 403(h) allows the Secretary to impose fines of up to 5% of AFDC costs for States found to be in violation of Federal standards. Your office has never fined any State. Why not? Do you plan to start imposing penalties in the near future?

## Audit Questions

4. In your testimony before the Subcommittee, you stated that you were not aware of State complaints about the new OCSE audit procedures. Please supply any State letters written to you about the reorganization and audit changes as well as your response to these letters.

5. In your testimony, you indicated that some States have complied -- you named South Carolina, Louisiana and Pennsylvania -- with the new audit requirements. What constitutes compliance? Which States have not complied?

6. It is our understanding that four previous audits of State programs have found 32 of 54 States and territories to be in violation of standards set out by Congress in the IV-D legislation. It is also our understanding that these violations are to be corrected within 12 months or a fine will be imposed. Would you please review for us the status of these cases and describe the procedures your office is following to resolve these violations?

7. The child support legislation requires that once States are found by audit to be out of compliance, they are to be audited yearly to make certain they are coming into compliance and that they are not committing any new violations. Are you now auditing on an annual basis the 32 States previously found to be out of compliance?

8. Is it correct that you now have 62 auditors and 5 clerical staff as compared with 104 auditors and 17 clerical staff three years ago? In view of the fact that our 1984 amendments increased the audit criteria from 15 to 35, how can these staff reductions be justified?

9. How do program reviews conducted by OCSE Regional Offices differ from audits? Are they performed by the same staff? Do the reviews cover the same areas as audits cover? What is done with the findings of a program review?

10. Did the reorganization of the Office of Child Support Enforcement (OCSE) merge the area audit offices with the regional offices of the Family Support Administration?

11. Are the OCSE area audit offices under the supervision and control of the Regional Administrators? What authority does a Regional Administrator have over area auditors? Who makes the hiring decisions on new area auditors? Who evaluates the performance of area auditors for personnel purposes such as salary increases and promotions?

12. Is the area audit function currently under the exclusive direction and control of the director of OCSE? Has the director of OCSE delegated these functions to other OCSE officials?

13. Did you, as the Director of OCSE, issue these [illegible]tructions to area auditors?

    (a) All child support cases selected for review and related records from entities which provide child support services must now be sent to one location for statewide audit evaluation and analysis.

    (b) Auditors' judgements and conclusions as to whether an action was taken to provide required child support enforcement services will be based entirely on the case file and related records/documentation furnished by the State agency at the time of the audit.

    (c) Auditors will no longer be permitted to obtain additional case-related information or interview IV-D staff to elicit explanations which may supplement case documentation.

    (d) Auditors may only perform tests and checks of data provided by States, including the listing of cases, to verify that they are reliable and complete.

14. Your new audit rules require that cases selected for audit be copied and sent to a central location. How will you assure that the confidentiality of these records is maintained?

15. Are area auditors permitted to visit audit sites in order to obtain evidence? Under what conditions are they permitted to visit audit sites?

16. Are area auditors permitted to visit State and local officials to discuss an audit when the auditors decide that a visit is necessary? Do they have the authority to make these decisions? Who can overrule them? On what basis could they be overruled?

17. You have stated previously that the purpose of the OCSE functional organization was to manage the "purely administrative details" of the area auditors better. What are the "purely administrative details" of the area auditors? What general principles do you use to distinguish purely administrative details from audit functions?

18. You have stated that some auditors should not be allowed to "run rampant" without accountability to persons appointed over them. Can you give examples of auditors "running rampant?" Who, besides you, has been appointed above the auditors? To whom do the auditors directly report?

19. Are the OCSE auditors organizationally located outside the staff or line management functions of the unit under audit?

20. When the auditors audit a State program that is supervised by a regional office, do you consider the regional office separate from the unit under audit? Are audits conducted of the regional offices?

21. Have the area auditors been denied an opportunity to obtain explanations by officials of the organizations, program, or activity under audit? Can the auditors obtain these explanations in person?

22. How much time is allowed for an audit?

23. Are the area auditors independent from the Regional Administrators?

24. Do you believe that the new audit procedures will allow States to devote more time to providing IV-D services? If so, what evidence can you provide to support this view?

25. Is it true that under previous auditing procedures much of the work involved with gathering case information was done on site by OCSE auditors? If so, were the costs of these activities entirely covered out of Federal funds? If the States must now perform these activities in order to send the information to a central location, does this shift 32 percent of the cost of these new State activities from the Federal government to the States? Are these costs included as administrative costs when calculating State incentive payments?

## Questions Related to Automation

26. Some States claim that they cannot provide a complete case listing because they are not automated. Your answer to them is to automate, yet OCSE has not expedited State automation. What are you currently doing to facilitate automation?

27. How many States have approved advanced planning documents for their automated systems? How many States are implementing systems on the basis of an approved plan? How many States have fully implemented automated systems? Of these States, how many have indicated they can comply with the new audit procedures? In answering these questions, please identify the States.

28. Congress enacted 90 percent Federal funding for development of automated systems in 1980. When did HHS approve the first State APD? Which States are currently receiving the 90 percent match?

29. You have encouraged States to transfer computer systems from other States rather than create new ones. Which States have successfully done this?

30. When do you project that all States will be fully automated?

**DEPARTMENT OF HEALTH & HUMAN SERVICES** Office of the Secretary

Office of the Assistant Secretary
for Legislation
Washington, D.C. 20201

Honorable Thomas J. Downey
Acting Chairman
Subcommittee on Public Assistance
and Unemployment Compensation
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Downey:

This responds to your letter of March 16, 1988, to Wayne Stanton, Director, Office of Child Support Enforcement. Enclosed you will find Mr. Stanton's responses to the thirty questions you posed to him as part of the record of the March 2, 1988, hearing at which he testified.

If your staff have any questions on this material, they may contact Sonia Rivero on 245-6311.

Sincerely,

Ronald F. Docksai
Assistant Secretary
for Legislation

An identical letter and enclosures have been sent to Representative Brown.

Question 1. During the hearing, the Subcommittee asked that you supply an organizational chart for the Office of Family Assistance and its subunits. The chart should show the national and regional offices and indicate, by name, the individuals who are wearing "two hats." For each individual with dual responsibilities, please indicate how the salary is allocated by program responsibilities.

Answer Organizational charts for FSA are attached as requested.

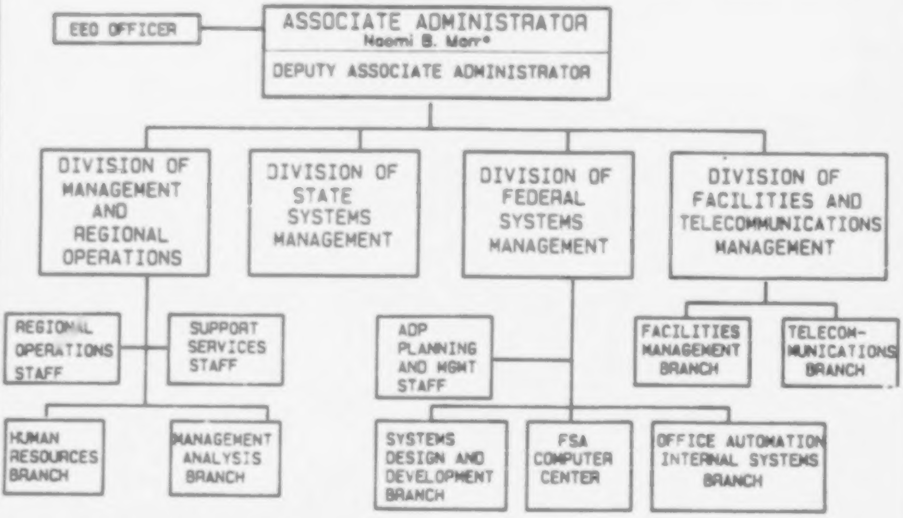
FSA salaries are not allocated by program responsibilities. There is one appropriation for FSA administrative costs; salaries for all FSA personnel are paid out of this appropriation.

### Individuals in the Family Support Administration Who Serve in Dual Capacities

| Name | Serves As |
|---|---|
| Wayne A. Stanton | Administrator, Family Support Administration<br>and<br>Director, Office of Child Support Enforcement |
| Naomi B. Marr | Associate Administrator, Office of Management and Information Systems<br>and<br>Associate Deputy Director for Information Systems, Office of Child Support Enforcement |
| Regional Staff as follows: | Regional Administrator, Family Support Administration<br>and<br>Regional Representative, Office of Child Support Enforcement |

Mr. Hugh Galligan, Region I
Ms. Ann Schreiber, Region II
Mr. Alex Porter, Region III
Ms. Suanne Brooks, Region IV
Ms. Marion Steffy, Region V
Mrs. Norma Goldberg, Region VI
Mr. Dwight High, Region VII
Mr. Guadalupe Salinas, Region VIII
Ms. Sharon Fujii, Ph.D., Region IX
Ms. Natalie Dethloff, Region X

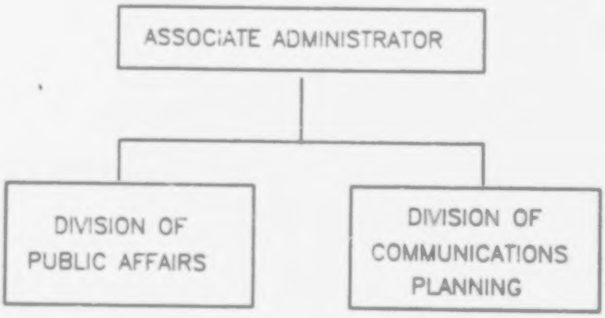
## FAMILY SUPPORT ADMINISTRATION
### OFFICE OF MANAGEMENT AND INFORMATION SYSTEMS


EEO OFFICER
ASSOCIATE ADMINISTRATOR
Naomi B. Marr*
DEPUTY ASSOCIATE ADMINISTRATOR
DIVISION OF MANAGEMENT AND REGIONAL OPERATIONS
DIVISION OF STATE SYSTEMS MANAGEMENT
DIVISION OF FEDERAL SYSTEMS MANAGEMENT
DIVISION OF FACILITIES AND TELECOMMUNICATIONS MANAGEMENT
REGIONAL OPERATIONS STAFF
SUPPORT SERVICES STAFF
ADP PLANNING AND MGMT STAFF
FACILITIES MANAGEMENT BRANCH
TELECOMMUNICATIONS BRANCH
HUMAN RESOURCES BRANCH
MANAGEMENT ANALYSIS BRANCH
SYSTEMS DESIGN AND DEVELOPMENT BRANCH
FSA COMPUTER CENTER
OFFICE AUTOMATION INTERNAL SYSTEMS BRANCH

* Also serves as Assoc. Dpty Dir.,
Office of Child Support Enforcement

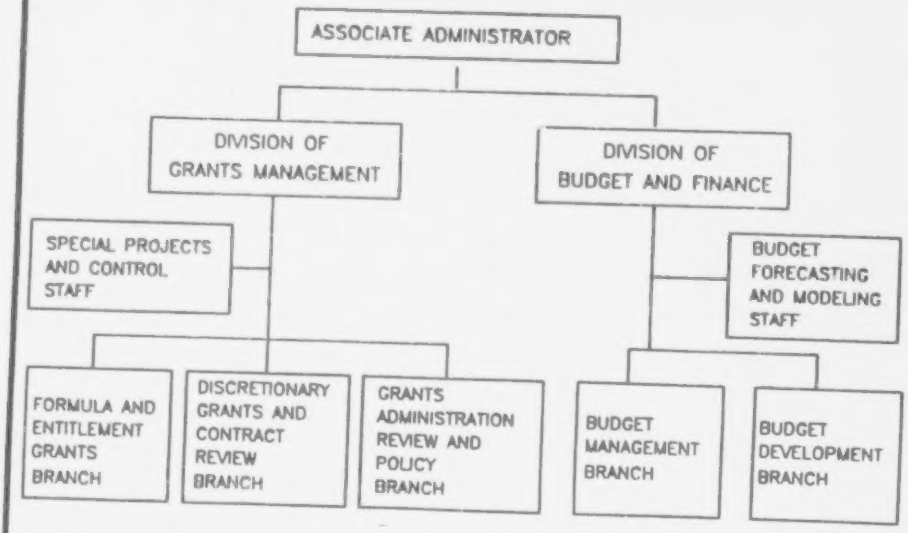
FSA 4/88

## FAMILY SUPPORT ADMINISTRATION
### OFFICE OF COMMUNICATIONS


ASSOCIATE ADMINISTRATOR
DIVISION OF PUBLIC AFFAIRS
DIVISION OF COMMUNICATIONS PLANNING

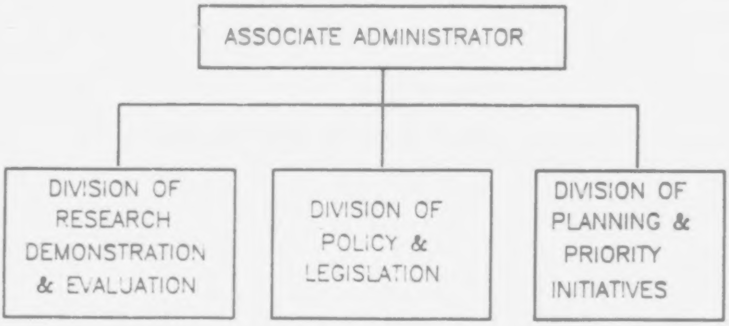
FSA 3/9/88

# FAMILY SUPPORT ADMINISTRATION
## OFFICE OF FINANCIAL MANAGEMENT


ASSOCIATE ADMINISTRATOR
DIVISION OF GRANTS MANAGEMENT
DIVISION OF BUDGET AND FINANCE
SPECIAL PROJECTS AND CONTROL STAFF
BUDGET FORECASTING AND MODELING STAFF
FORMULA AND ENTITLEMENT GRANTS BRANCH
DISCRETIONARY GRANTS AND CONTRACT REVIEW BRANCH
GRANTS ADMINISTRATION REVIEW AND POLICY BRANCH
BUDGET MANAGEMENT BRANCH
BUDGET DEVELOPMENT BRANCH

FSA 3/9/88

## FAMILY SUPPORT ADMINISTRATION
### OFFICE OF POLICY



ASSOCIATE ADMINISTRATOR

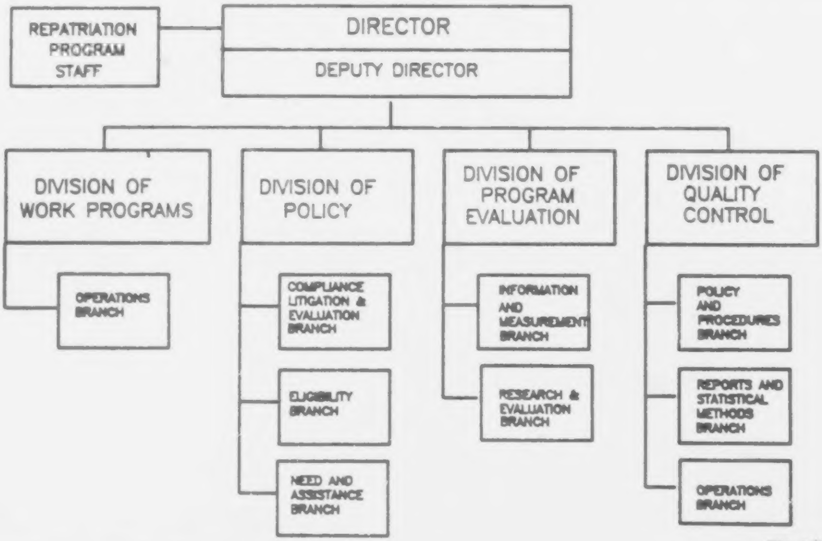
DIVISION OF RESEARCH DEMONSTRATION & EVALUATION

DIVISION OF POLICY & LEGISLATION

DIVISION OF PLANNING & PRIORITY INITIATIVES

FSA 3/9/88

## FAMILY SUPPORT ADMINISTRATION
### OFFICE OF FAMILY ASSISTANCE



REPATRIATION PROGRAM STAFF

DIRECTOR

DEPUTY DIRECTOR

DIVISION OF WORK PROGRAMS
- OPERATIONS BRANCH

DIVISION OF POLICY
- COMPLIANCE LITIGATION & EVALUATION BRANCH
- ELIGIBILITY BRANCH
- NEED AND ASSISTANCE BRANCH

DIVISION OF PROGRAM EVALUATION
- INFORMATION AND MEASUREMENT BRANCH
- RESEARCH & EVALUATION BRANCH

DIVISION OF QUALITY CONTROL
- POLICY AND PROCEDURES BRANCH
- REPORTS AND STATISTICAL METHODS BRANCH
- OPERATIONS BRANCH

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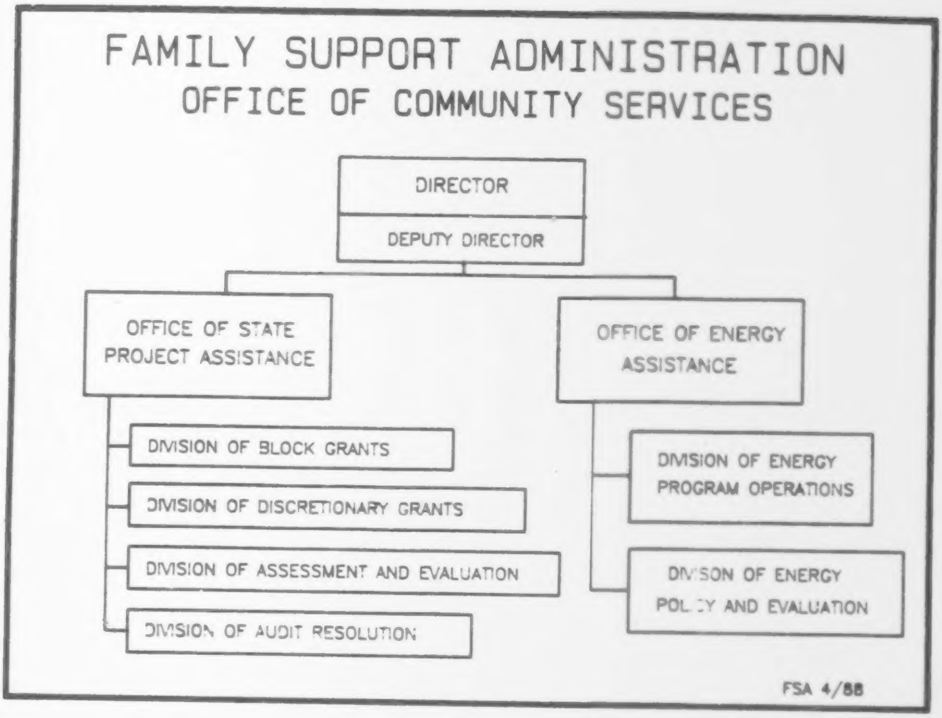
FAMILY SUPPORT ADMINISTRATION
OFFICE OF COMMUNITY SERVICES
DIRECTOR
DEPUTY DIRECTOR
OFFICE OF STATE PROJECT ASSISTANCE
OFFICE OF ENERGY ASSISTANCE
DIVISION OF BLOCK GRANTS
DIVISION OF DISCRETIONARY GRANTS
DIVISION OF ASSESSMENT AND EVALUATION
DIVISION OF AUDIT RESOLUTION
DIVISION OF ENERGY PROGRAM OPERATIONS
DIVISION OF ENERGY POLICY AND EVALUATION

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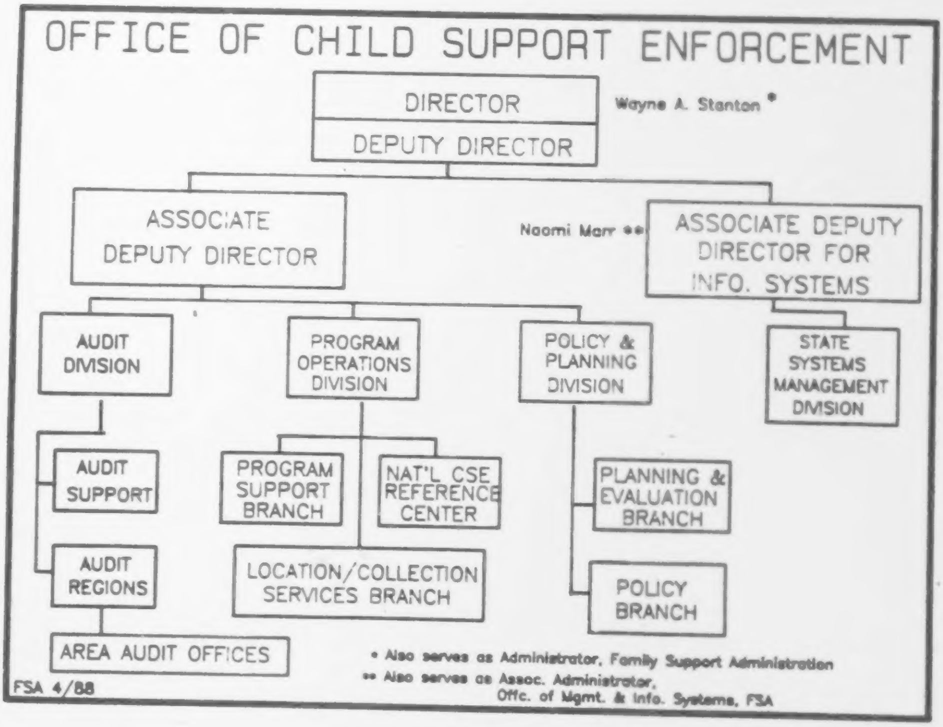
OFFICE OF CHILD SUPPORT ENFORCEMENT
DIRECTOR
DEPUTY DIRECTOR
Wayne A. Stanton *
ASSOCIATE DEPUTY DIRECTOR
Naomi Marr **
ASSOCIATE DEPUTY DIRECTOR FOR INFO. SYSTEMS
AUDIT DIVISION
PROGRAM OPERATIONS DIVISION
POLICY & PLANNING DIVISION
STATE SYSTEMS MANAGEMENT DIVISION
AUDIT SUPPORT
AUDIT REGIONS
AREA AUDIT OFFICES
PROGRAM SUPPORT BRANCH
NAT'L CSE REFERENCE CENTER
LOCATION/COLLECTION SERVICES BRANCH
PLANNING & EVALUATION BRANCH
POLICY BRANCH

* Also serves as Administrator, Family Support Administration

** Also serves as Assoc. Administrator,
Offc. of Mgmt. & Info. Systems, FSA

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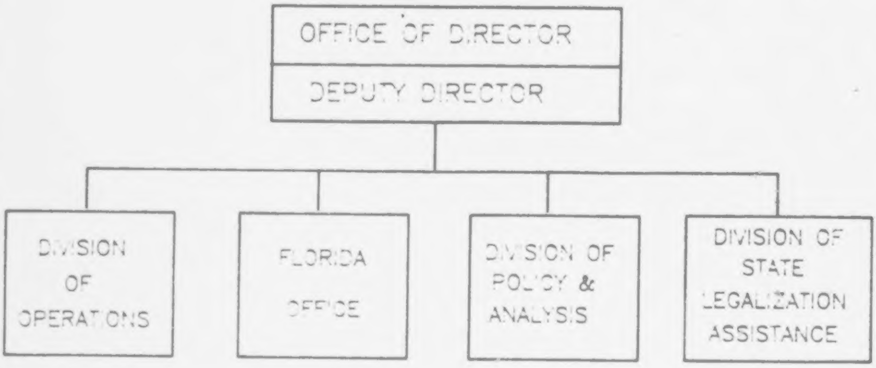
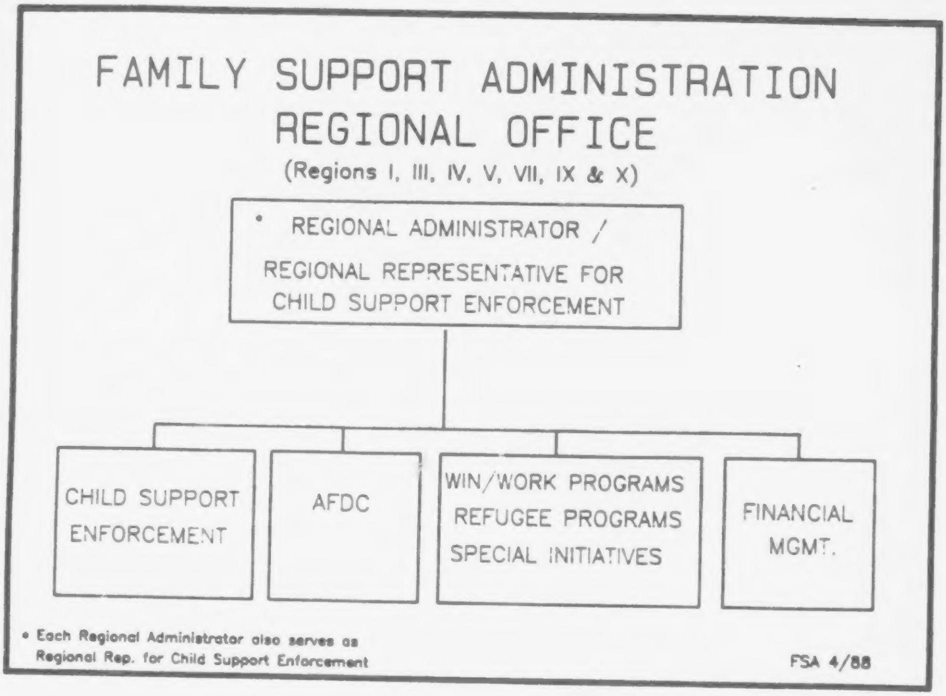
FAMILY SUPPORT ADMINISTRATION
OFFICE OF REFUGEE RESETTLEMENT


OFFICE OF DIRECTOR
DEPUTY DIRECTOR
DIVISION OF OPERATIONS
FLORIDA OFFICE
DIVISION OF POLICY & ANALYSIS
DIVISION OF STATE LEGALIZATION ASSISTANCE

FSA 3/9/88



## FAMILY SUPPORT ADMINISTRATION REGIONAL OFFICE

(Regions I, III, IV, V, VII, IX & X)

- * REGIONAL ADMINISTRATOR / REGIONAL REPRESENTATIVE FOR CHILD SUPPORT ENFORCEMENT
  - CHILD SUPPORT ENFORCEMENT
  - AFDC
  - WIN/WORK PROGRAMS<br>REFUGEE PROGRAMS<br>SPECIAL INITIATIVES
  - FINANCIAL MGMT.

* Each Regional Administrator also serves as Regional Rep. for Child Support Enforcement

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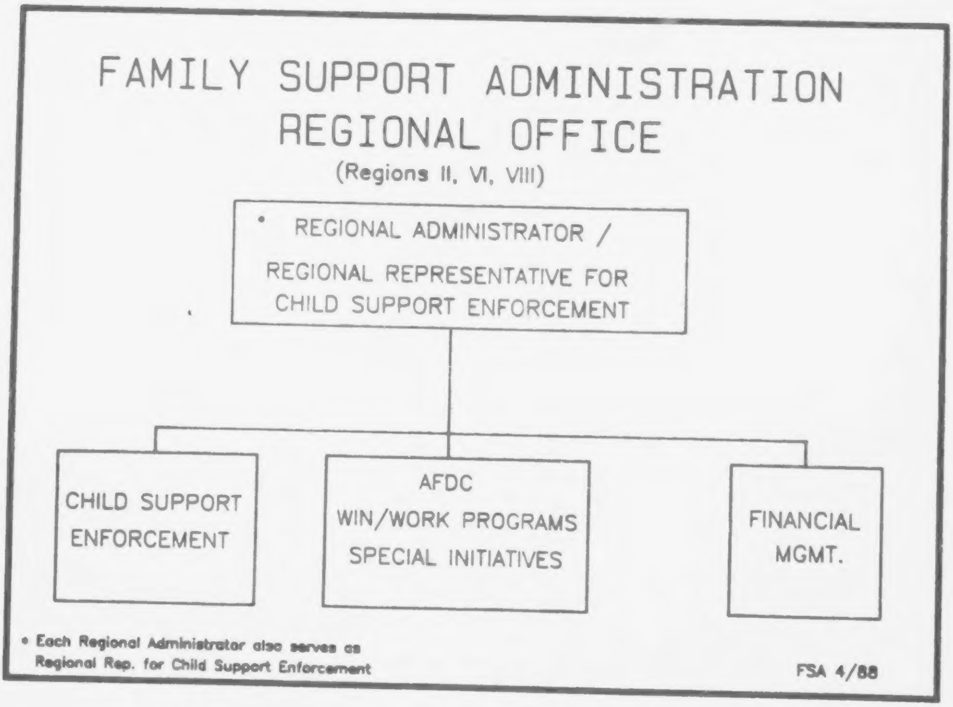

## FAMILY SUPPORT ADMINISTRATION REGIONAL OFFICE

(Regions II, VI, VIII)

- * REGIONAL ADMINISTRATOR / REGIONAL REPRESENTATIVE FOR CHILD SUPPORT ENFORCEMENT
  - CHILD SUPPORT ENFORCEMENT
  - AFDC<br>WIN/WORK PROGRAMS<br>SPECIAL INITIATIVES
  - FINANCIAL MGMT.

* Each Regional Administrator also serves as Regional Rep. for Child Support Enforcement

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Question 2. In your testimony, you noted that HHS has encouraged States to use the IRS tax refund offset program because it is an effective collection tool. To what extent have you permitted States to require a separate application form for the IRS offset? What is the purpose of such an application? On what authority have you done so? Which States require a separate application for the IRS intercept? How has this affected the number of cases selected for the intercept?

Answer Reflecting federal law and congressional intent, federal regulations require States to verify the accuracy of the amount of past due support submitted for income tax refund offset. For non-AFDC cases, Congress has provided that the costs of tax offset submittals may be passed on to the custodial parents. And, in the event that the taxpayer files a joint income tax return and his/her spouse requests a distributive share of the refund offset (by filing an amended 1040X return at any time within the next six years), the non-AFDC custodial parent may be required to repay all or part of the refund offset.

Because of these complexities, which stem in part from the historic lack of official payment records in States which permit direct payment of support to the custodial parent, States may consider it essential to require a separate application from non-AFDC custodial parents before employing the tax offset enforcement remedy even in the absence of a Federal requirement to do so. Consistent with the law and regulations, OCSE permits States broad latitude in non-AFDC cases to secure verification of support arrearages and to ensure that the custodial parent is fully apprised of the consequences of tax refund offset certification. We have no information concerning how many or which States may require a separate application, nor how such a practice may affect the number of submittals for Federal tax refund offset.

Question 3. The Subcommittee has heard testimony about States that have been negligent in implementing the 1984 amendments. Section 452(a) provides the Federal office with broad authority to set specific requirements for State programs, and Section 403(h) allows the Secretary to impose fines of up to 5% of AFDC costs for States found to be in violation of Federal standards. Your office has never fined any States. Why not? Do you plan to start imposing penalties in the near future?

Answer The Child Support Enforcement Amendments of 1984 required States to implement most of its provisions by October 1, 1985, unless State legislation was needed to carry out the federal requirements. Since every jurisdiction qualified under this exception, the effective date for a State was the beginning of the fourth month after the State's first legislative session that ended on or after October 1, 1985. The lag time inherent in the statutory language of the 1984 Amendments is further compounded by the fact that some States have two-year legislative sessions; that is, the first legislative session that ended on or after October 1, 1985 was sometime in late 1986. Pennsylvania, for example, falls into this category even though the Subcommittee heard testimony to the effect that "a generous reading of the 1984 law gave Pennsylvania until April of 1986" to make the necessary changes.

OCSE has closely monitored implementation progress. As States reached the end of their legally permissible time frame for adopting necessary legislation, they were officially put on notice, subject to an opportunity for a hearing, of OCSE's intent to disapprove their State IV-D plan. Such a determination would result in a loss of all federal financing of their Child Support Enforcement programs.

Beginning on January 2, 1987, twelve States, at one time or another, have been formally advised that their State plans may be disapproved for failure to timely implement requirements of the 1984 Amendments. No fines have been levied because eleven of these States subsequently implemented the necessary provisions through enactment of State legislation without the necessity of suspending federal funding. The twelfth State, Pennsylvania, enacted legislation in March of 1988 in the face of a scheduled hearing; the mechanics of State plan approval are still in process at this time.

Failure to use provisions of the 1984 Amendments, and all other federal requirements as well, is addressed through OCSE's periodic audits. Here again we have tried to move aggressively within the confines of the law. Based on audits of FY 1984 program performance, 14 States or territories were found not to be in substantial compliance. Audits of FY 1985 performance found another 18 States or territories not to be in substantial compliance. In every instance, the State or territory has been penalized one percent of the federal AFDC funds for the jurisdiction, and as required by federal law, the penalty has been suspended while they are taking corrective action under an approved corrective action plan. Upon completion of the corrective action period, not to exceed one year, OCSE conducts a follow-up audit. If the State has come into substantial compliance, the penalty is forgiven, again as provided by law. Thus far, the follow-up audits have confirmed that, indeed, the States in question have successfully come into substantial compliance with federal requirements.

OCSE will continue to aggressively carry out its stewardship responsibilities. We will not hesitate to assess monetary penalties against offending jurisdictions consistent with the provisions of federal law. Our goal, however, is not to take money away from the States; but to see States run better and more effective child support programs.

Question 4. In your testimony before the Subcommittee, you stated that you were not aware of State complaints about the new OCSE audit procedures. Please supply any State letters written to you about the reorganization and audit changes as well your response to these letters.

Answer At the outset, let me rectify what seems to have been a misunderstanding. I most assuredly have seen State complaints about the OCSE audit procedures; however, with one exception, these letters were all submitted prior to the issuance of the instructions. The one exception, from South Carolina, was received by me subsequent to issuance of Action Transmittal (AT) 87-7. And, as you will note, Commissioner Solomon's concern about the ability of South Carolina to furnish a case listing was satisfactorily resolved. Despite the initial reservations, and by working with OCSE field audit staff, the South Carolina child support agency was able to furnish the necessary information for program audit purposes.

The chronology of events is of importance in assessing the twelve letters regarding audit procedures. These changes were initially announced in a letter from me to all State human service agency heads in late May of 1987. Eleven of the twelve reactions from State and local officials were received before issuance of AT 87-7 in late August. This AT responded in a positive way to the questions and concerns that had been expressed, by clarifying, for example, that case files/records could be sent to more than one location when mutually agreed upon by the OCSE auditors and State officials prior to the initiation of audit fieldwork.

Likewise, concern that thousands of documents had to be duplicated was misplaced; only those cases actually selected from case listings need to be duplicated and forwarded for audit, with reimbursement for the cost of this work available at the regular Federal financial participation rate.

Attached are all the letters addressed to me about the audit changes. I received no letter from any State or local officials on the reorganization. As I noted in my testimony, this issue was never brought to my attention in face-to-face conversations with key State and local government officials.

Question 5. In your testimony, you indicated that some States have complied — you named South Carolina, Louisiana and Pennsylvania — with the new audit requirements. What constitutes compliance? Which States have not complied?

Answer Compliance with the new audit requirements takes the form of:

A) Preparation and submission of caseload data and caseload listings for sample selection purposes;

B) Submission of all pertinent case documentation (originals, copies or electronic media) to one or more location(s), as mutually agreed upon, for review by the auditors; and,

C) Providing any additional information requested during the conduct of the audit.

To date, 18 states for which audits have been initiated since October 1, 1987, have complied with the intent of the requirements of the Action Transmittal. In those few instances where the States have expressed serious problems in providing the information within the time frames specified, we have worked with them to arrive at alternative approaches to meet the requirements. All States have worked with the OCSE auditors to arrive at reasonable and workable solutions to getting the audits started with minimal disruption to the State's ongoing operations. In many states, the case listings have arrived on time and in good order, having been obtainable with minimum difficulty.

There follows a listing of States where case listings have been requested and the status of our request, as of April 1, 1988.

A. STATES WHERE CASE LISTINGS HAVE BEEN REQUESTED FOR FY 1987 PROGRAM RESULTS/PERFORMANCE MEASUREMENT AUDITS

CONNECTICUT - LISTING RECEIVED (AUDIT IN PROGRESS)
DELAWARE - REQUESTED
FLORIDA - LISTING RECEIVED (AUDIT IN PROGRESS)
GUAM - REQUESTED
KANSAS - REQUESTED
MASSACHUSETTS - REQUESTED
MISSISSIPPI - LISTING RECEIVED (AUDIT IN PROGRESS)
MISSOURI - LISTING RECEIVED (AUDIT IN PROGRESS)
MONTANA - LISTING RECEIVED
NEW MEXICO - LISTING RECEIVED (AUDIT IN PROGRESS)
NORTH DAKOTA - LISTING RECEIVED (AUDIT IN PROGRESS)
OHIO - REQUESTED
SOUTH CAROLINA - LISTING RECEIVED (AUDIT IN PROGRESS)
SOUTH DAKOTA - LISTING RECEIVED
TENNESSEE - REQUESTED
TEXAS - REQUESTED
UTAH - REQUESTED
WASHINGTON - LISTING RECEIVED (AUDIT IN PROGRESS)
WYOMING - REQUESTED

B. FY 1986 AUDITS TO BE PERFORMED DURING FY 1988 BECAUSE STATE HAS TENTATIVELY FAILED PERFORMANCE MEASUREMENT CRITERION

ARIZONA - REQUESTED
DISTRICT OF COLUMBIA - REQUESTED
WEST VIRGINIA - NOT REQUESTING LISTING - USING AFDC REGISTER

C. STATES WHERE CASE LISTINGS HAVE BEEN REQUESTED FOR FOLLOW-UP AUDITS BECAUSE PENALTY NOTICE ISSUED AS A RESULT OF FY 1984/1985 AUDIT

DISTRICT OF COLUMBIA - LISTING REQUESTED
DELAWARE - LISTING REQUESTED
FLORIDA - LISTING REQUESTED
GUAM - LISTING REQUESTED
KANSAS - LISTING REQUESTED
ILLINOIS - LISTING RECEIVED (AUDIT IN PROGRESS)
MARYLAND - LISTING REQUESTED
MISSISSIPPI - LISTING RECEIVED
MISSOURI - LISTING RECEIVED (AUDIT IN PROGRESS)
NEW MEXICO - LISTING RECEIVED (AUDIT IN PROGRESS)
NEW HAMPSHIRE - LISTING RECEIVED
NORTH CAROLINA - LISTING RECEIVED (AUDIT IN PROGRESS)
OHIO - LISTING REQUESTED
SOUTH CAROLINA - LISTING RECEIVED (AUDIT IN PROGRESS)
TENNESSEE - LISTING RECEIVED (AUDIT COMPLETED)
WASHINGTON - LISTING RECEIVED (AUDIT COMPLETED)
WYOMING - LISTING REQUESTED

Question 6. It is our understanding that four previous audits of State programs have found 32 of 54 States and territories to be in violation of standards set out by Congress in the IV-D legislation. It is also our understanding that these violations are to be corrected within 12 months or a fine will be imposed. Would you please review for us the status of these cases and describe the procedures your office is following to resolve these violations?

Answer If based on a Program Results/ Performance Measurements audit conducted by the OCSE Audit Division, we determine that a State has failed to have substantially complied with the Title IV-D requirements of the Social Security Act, a Notice of Substantial Noncompliance (Penalty Notice) is issued to the State. This Notice indicates the State's total IV-A payments will be reduced by 1 percent beginning with the quarter in which the Notice was issued.

However, the penalty may be suspended if the State submits a corrective action plan within 60 days of the Notice and the plan is approved by OCSE. The corrective action period cannot exceed one year from the date of the Notice. If the corrective action plan is approved, suspension of the penalty will continue until it has been determined that:

a. The State has achieved substantial compliance with the unmet criteria cited in the Notice, in which case no penalty will be taken for any period;

b. the State is not implementing its corrective action plan; or

c. the State implemented its corrective action plan but has failed to achieve substantial compliance with the unmet criteria or maintain compliance with any "marginally met" criteria cited in the Notice.

In the last two cases, total AFDC payments will be reduced as prescribed under federal law and regulations.

To determine whether the State has achieved substantial compliance, we conduct a follow-up audit of the unmet and marginally-met criteria cited in the Notice. The follow-up review period must include the first full fiscal quarter after the corrective action period ends.

For example, if a State's corrective action period expired on July 5, 1987, the audit period for the follow-up review would include September 1, through December 31, 1987, and the follow-up review would be scheduled to be conducted after January 1, 1988.

If a State fails to achieve substantial compliance, the penalty is imposed retroactively to the beginning of the quarter in which the corrective action period expired.

As of April 1, 1988, 32 of 53 States and/or territories have been found to be out of substantial compliance based on FY 1984 and 1985 audits. Penalties have been suspended and corrective action plans have been submitted and approved in all instances, with corrective action periods ranging from 120 days to a full year.

Corrective action periods have expired for 16 States. For these States, follow-up reviews/complete audits have been conducted for 3 States, are underway in 5 States, and are in the planning phase in the remaining States. In the 3 States where the reviews have been completed, the penalty notice has been rescinded because upon review, the State met the substantial compliance requirements for which they were originally put on notice.

Question 7. The child support legislation requires that once States are found by audit to be out of compliance, they are to be audited yearly to make certain that they are coming into compliance and that they are not committing any new violations. Are you now auditing on an annual basis the 32 States previously found to be out of compliance?

Answer At the present time there is no need to audit any State on an annual basis. If, based on our follow-up reviews, we impose the penalty, we will conduct annual comprehensive audits to determine if the State has met the substantial compliance standard for the penalized deficiencies and is continuing to maintain substantial compliance for all other State plan requirements.

Question 8. Is it correct that you now have 62 auditors and 5 clerical staff as compared with 104 auditors and 17 clerical staff three years ago? In view of the fact that our 1984 amendments increased the audit criteria from 15 to 35, how can staff reductions be justified?

Answer The staffing numbers cited are relatively accurate, but there have been no orchestrated staff reductions in the OCSE Audit Division. All losses have been through attrition. Many of the auditors who have left sought employment with organizations where the travel requirements were less, opportunities for advancement were greater, or they simply wanted a different type of assignment.

High turnover is common to the audit profession. Indeed, newspaper reports indicate that even very large organizations such as the Internal Revenue Service and the major accounting firms have problems recruiting and retaining people with the skills we are seeking.

OCSE has taken a number of positive actions to balance resources and workload. Currently, 18 auditors are authorized to be hired and are being actively recruited. Four have been hired in recent months and four others are in advanced stages of the recruitment process. We have secured authorization for direct hire authority from the Office of Personnel Management; under this we can hire directly from college campuses prior to graduation. Again, our hiring problem is endemic to the auditing profession, not peculiar to OCSE.

In addition, auditor productivity has been enhanced to help compensate for the expansion in audit criteria. OCSE field auditors are equipped with portable computers, and we have made extensive use of audit software packages and word processing equipment in developing and producing audit reports. The audit field staff, based on experience, is quite familiar with the Child Support Enforcement programs of the several States. This knowledge, coupled with growing familiarity with the audit changes stemming from the 1984 Amendments, has moved us well along the "learning curve". And, of course, the procedural changes introduced by Action Transmittal 87-7 should serve to both expedite the issuance of audit reports and lessen some of the burdens previously encountered by the auditors.

Question 9. How do program reviews conducted by OCSE Regional Offices differ from audits? Are they performed by the same staff? Do the reviews cover the same areas as audits cover? What is done with the findings of a program review?

Answer Audits are mandated by Title IV-D of the Social Security Act to ascertain whether actual program operations conform to the requirements of Federal law and regulation. They are a comprehensive look at the totality of the Child Support Enforcement program and are conducted in accordance with OCSE audit regulations and audit standards promulgated by the General Accounting Office, with all that entails in terms of staff capability and adherence to statistical sampling rules. Audits, alone, form the basis for invoking the Notice of Penalty and the potential loss of AFDC Federal matching funds.

Program reviews, on the other hand, were carried out in FY 1987 by OCSE Regional Office staff to focus the State's attention on our mutual objective of full implementation of the enforcement techniques authorized by the 1984 Amendments. They were conducted in 33 States. Some involved limited onsite interviews and small-scale case sampling by Regional Office program specialists; others were a compilation of information gleaned from reviewing statistical and financial reports, telephone interviews, and other information coming to the attention of the Regional Office. The program reviews were essentially technical assistance efforts to alert State officials to problems in the operation of their child support programs so that remedial action could be taken prior to an audit. Program review reports have routinely been made available to OCSE auditors as well as to appropriate State officials for their consideration and action.

Question 10. Did the reorganization of the Office of Child Support Enforcement (OCSE) merge the area audit offices with the regional offices of the Family Support Administration?

Answer No, the reorganization of the Family Support Administration has not merged the audit offices with the regional offices. In certain Federal Regional Office cities, because of a shrinking work force, we had vacant office space in both the

Area Audit Offices as well as in the Regional Offices. FSA is taking responsible action by putting both components into co-located offices to reduce the amount of this unused office space and related costs, which we have been paying for. While the audit staffs in several of the Regional Office cities (i.e., Boston, Dallas, Chicago and Denver) have been or are being physically co-located, the staffs are kept separate in their own identifiable area and the auditors work independently of regional office operations. The steps which we have taken have saved hundreds of thousands of dollars per year. However, none of this, in any way, reflects upon or impacts on the integrity of the audits.

Question 11. Are the OCSE area audit offices under the supervision and control of the Regional Administrators? What authority does a Regional Administrator have over area auditors? Who makes the hiring decisions on new area auditors? Who evaluates the performance of area auditors for personnel purposes such as salary increases and promotions?

Answer The OCSE area audit offices are not now and never have been under the supervision and control of the Regional Administrators (RA). The audit staff are organizationally considered Central Office personnel outstationed in the field. The Regional Administrators have no direct authority over the audit staff. In those cities where the audit staff is co-located with the Regional Administrator's staff a certain element of coordination would exist merely by the fact that the RA has oversight responsibility for the entire office. However, it should be clearly understood that they exercise no control over the individual auditors in any administrative or program decision making areas. All work assignments are directed and controlled through the OCSE Audit Division in Washington, D.C.

The decision to hire audit staff to fill vacancies, is a multilevel process. When applications for a position are received from the FSA Personnel Office, the Regional Administrator/Regional Representative and the Area Audit Supervisor work together on the selection process. The Area Audit Office Supervisor interviews the prospective employees, either in-person or over the phone, discusses the strengths and weaknesses of each candidate with the Regional Audit Manager, then makes a selection and recommends that individual to the Regional Administrator/Regional Representative for preparation of the necessary paperwork. This selection is then forwarded to FSA Central Office Personnel for further processing. The selection is referred to the Associate Deputy Director, OCSE for his concurrence as well as that of the Director, OCSE Audit Division, and then to me. Once these concurrences are obtained, the selection is forwarded to the Personnel Office to extend the formal offer of employment to the selectee. In no instance have employees been hired without an interview by the Area Office Supervisor where the vacancy exists, or another Audit Supervisor who is located in closer geographic proximity to the prospective employee.

All evaluations of auditor performance as well as salary and promotion decisions are prepared by supervisory Audit Division personnel. These determinations are then reviewed and coordinated through the normal supervisory channels in Washington. At no time is any of this documentation reviewed by the Regional Administrators.

Question 12. Is the area audit function currently under the exclusive direction and control of the Director of OCSE? Has the director of OCSE delegated these functions to other OCSE officials?

Answer As detailed in law and regulation, the Secretary of DHHS's designee has the authority to direct the OCSE audit function. Since the creation of the Audit Division, the day to day oversight and supervision of the Audit Division has been carried out by the Deputy Director, OCSE and/or the Associate Deputy Director, OCSE and the Director, OCSE Audit Division. These functions have never been delegated to any other OCSE or FSA official.

Question 13. Did you as the Director of OCSE, issue these instructions to area auditors?

(a) All child support cases selected for review and related records from entities which provide child support services must now be sent to one location for statewide audit evaluation and analysis.

Answer This statement is simply incorrect. Action Transmittal 87-7 clearly indicates on Page 4 that the records are "to be submitted to the central location(s)". In operational terms, the State IV-D office and the Area Audit Supervisor negotiate precisely how many locations and where the records will be shipped for review by the auditors.

(b) Auditors' judgments and conclusions as to whether an action was taken to provide required child support enforcement services will be based entirely on the case file and related records/documentation furnished by the State agency at the time of the audit.

Answer This statement also is inaccurate. The policy set forth in the Action Transmittal for the submission of case file documentation specifies that the auditor's judgments and conclusions .... "will be based primarily on the case file and related records/documentation..." There is a significant difference between a policy which states "entirely" as opposed to a policy which specifies "primarily" as to the use of information contained in the case file documentation. Auditors retain the authority and responsibility to obtain all required information to conduct the complete audit.

To provide OCSE auditors the freedom to explore potential problems with case file documentation, as well as exercise due professional judgement whether or not to accept records for these audits, our audit staff are permitted to visit any locations which they deem necessary to conduct and complete the audit. The decision whether or not to accept case file documentation for review is based upon the audit supervisor and the auditors experience with the State's record-keeping system and performance in previous audits, as well as analysis of the records in question to determine their authenticity. There have been no instances where the OCSE field auditors have been denied an opportunity to either reject a record, which they believed may be tampered with, or follow-up, either telephonically or in person, on a record which may for some reason be incomplete. The intent of this requirement is to make the State child support enforcement agency accountable, as it should be, for complete recordkeeping and to ensure that adequate and appropriate documentation is being maintained to support its child support efforts. However, it is the auditor's judgement which ultimately decides whether an audit finding is adequately documented or if additional information is required.

(c) Auditors will no longer be permitted to obtain additional case-related information or interview IV-D staff to elicit explanations which may supplement case documentation.

Answer

There has been no directive to the audit staff which limits the auditor's judgement or prohibits them from obtaining any additional case-related information or from interviewing the child support staff to elicit explanations, or supplemental information, or case documentation. Audit staff have the freedom to pursue case related information to satisfy their need to document audit findings.

The intent of this requirement is to allow the auditor's to use their judgement in determining when we should develop the cause and effect of the findings. If the findings are insignificant, it is not necessary to do further follow-up work. But if problems are significant, we try to determine if the problem is systemic. These judgments are fundamental in the auditing profession. A secondary intent of this requirement was to minimize the expenditure of audit time and resources on unnecessary work.

It should be clearly understood that OCSE management and its Audit Division worked closely to ensure the integrity of the audit process and its compliance with all applicable audit standards. The revised procedures meet these objectives. The questions above were raised in response to a draft of the revised procedures, not AT 87-7.

(d) Auditors may only perform tests and checks of data provided by States, including the listing of cases, to verify that they are reliable and complete.

Answer

While the AT indicates that tests and checks will be made, it does not indicate it is the only effort allowed to be performed to verify reliability and accuracy. This aspect of the AT was included to put States on notice that we would not accept "just anything," but would perform tests to ensure that the information which we received is both reliable and acceptable.

It is a standard audit practice for the auditor to test and check the data provided by the auditee (i.e., in this case, States). To do otherwise, would be irresponsible from a professional standpoint. Any level of checks and tests of the data provided, no matter how thorough, boils down to the basic point that the auditor's judgement is the final determinant as to whether or not data and other information is accepted for audit and reviewed for reliability, completeness and accuracy. The Audit Division has implemented procedures to handle situations where these tests and checks show a State's data may be incorrect.

Question 14. Your new audit rules require that cases selected for audit be copied and sent to a central location. How will you assure that the confidentiality of these records is maintained?

Answer

The audit staff has always been aware of the confidential nature of the records they work with. Steps have always been taken to ensure that the case information, as well as any other information provided by the auditee is safeguarded at all times, especially when in the possession of the auditors. The copied information is treated the same as the audit workingpapers and as such is secured both during and after its use in the audit. Security of information has always been an important part of the auditors regular work habits. In the entire history of the OCSE Audit Division, there has never been an incident of this security being compromised.

Question 15. Are area auditors permitted to visit audit sites in order to obtain evidence? Under what conditions are they permitted to visit audit sites?

Answer By way of background, it is important to understand the breadth of a program results/performance measurement audit. The determination of substantial compliance with federal requirements comprises evaluations encompassing: (a) an examination of the State's administration of its child support enforcement program; (b) a review of sample cases to determine if required child support services are being provided; and (c) application of the performance indicators specified in regulation. While the entire focus of controversy has been around case reviews, OCSE auditors can, and do, routinely perform whatever work is necessary, wherever it is necessary, in discharging their responsibilities relative to the other two facets of substantial compliance.

With respect to case reviews, AT 87-7 instructed the States to submit the pertinent records to central locations or to the OCSE Area Audit Office for review. These locations are, by definition, audit sites. When the need arises for the auditors to travel to other locations, this decision is arrived at within the Audit Division by mutual agreement between the staff member, Area Audit Supervisor and, if necessary, with the Regional Audit Manager. No instruction expressly prohibits the auditors from visiting an auditee at any location if he/she and his/her supervisor agree that the visit is necessary to the conduct and completion of the audit.

Question 16. Are area auditors permitted to visit State and local officials to discuss an audit when the auditors decide that a visit is necessary? Do they have the authority to make these decisions? Who can overrule them? On what basis could they be overruled?

Answer The Area Audit Office Supervisor, since the inception of the Audit Division, has had the authority to direct the audit staff to visit State and local officials to discuss matters related to the audit. Blanket Travel Orders have been issued to the Area Audit staff to permit this flexibility in going anywhere in the State as the need arises. The decision whether to go or not rests with the Area Audit Supervisor, after consultation with the audit staff involved and if necessary, the Regional Audit Manager. These decisions are made in the course of routine management of the audits. Any decision could be overruled by individuals in the direct line of supervision, i.e., the Regional Audit Manager, the Director, Audit Division, the Associate Deputy Director or Deputy Director, OCSE or the Director, OCSE.

The basis for overruling a decision to travel is purely speculative; to date, the situation has not occurred. Some of the factors which could result in an overrule situation might be a significant reduction in available travel funds, the temporary need to limit audit presence in a state or other jurisdiction, or other considerations which may make it more advantageous to postpone the performance of some aspect of the audit work until later in the audit. All of these situations would be of a temporary nature and should not affect the overall completion of the audit. However, it should be noted, that there has never been an instance where OCSE auditors have been precluded from conducting an audit in accordance with GAO Standards.

Question 17. You have stated previously that the purpose of the OCSE functional organization was to manage the "purely administrative details" of the area auditors better. What are the "purely administrative details" of the area auditors? What general principles do you use to distinguish purely administrative details from audit functions?

Answer The "purely administrative details" which are referred to deal primarily with office space. Co-location in selected cities reduces the amount of unneeded and vacant space, thus significantly reducing our total cost of leased space. In the procurement of supplies, especially where co-location already exists, coordination between the Area Audit Office and the Regional Administrator will not only reduce duplicative inventories, but overall supply costs as well. These changes have been driven by an attempt to provide a better mechanism to service all FSA components at a lower cost.

The general rule which applies is whether or not the matter in question impacts upon the audit function from an administrative basis or is related to the actual audit work. Functions which in any way relate to the integrity, conduct and form of the audit assignment or the resulting audit report have never been considered for any kind of transfer.

It should be clearly understood that all aspects of audit operations related to the assigning of work, reviewing work, and monitoring and drafting reports are clearly audit functions. Even administrative details related to travel, assignments, training, time cards, etc., have only been handled within the Audit Division.

Question 18. You have stated that some auditors should not be allowed to "run rampant" without accountability to persons appointed over them. Can you give examples of auditors "running rampant?" Who, besides you, has been appointed above the auditors? To whom do the auditors directly report?

Answer In my July 10, 1987, response to the Assistant Secretary for Management and Budget regarding the Inspector General's comments on FSA's proposed functional statement, I did state that, "They (the auditors) should not be allowed to continue to run rampant without accountability to those persons appointed over them — me included."

Basically, I was referring to the need to reexamine the way of doing business in an era of resource constraints so as to conduct and complete program audits more expeditiously, issue the audit reports more quickly, and generally strengthen States' accountability for the caliber and operation of their Child Support Enforcement programs.

The audit provisions of Title IV-D of the Social Security Act impose a substantial burden on OCSE. We were detailing auditors all over the country, from California to Washington, D.C. and from Georgia to Minnesota, to get the job done. And based on the deficiencies being uncovered, it was very hard to see how we could even meet our responsibilities in the future, much less perform all the required audits in less time. Change was in order, change in approach and in procedures as well as the addition of staff, change such as that embodied in AT 87-7. Yet any and all of these changes were met with total resistance from a disgruntled employee within a position of authority in the Audit Division. Out of frustration with this situation, I made the comment about the auditors "running rampant".

Whom the auditors are accountable to has not changed. The auditors chain of command is listed below:

- Area Audit Office Auditor reports to an Area Audit Office Supervisor
- Area Audit Office Supervisor reports to the Regional Audit Manager
- Regional Audit Manager reports to the Director, Audit Division
- Director, Audit Division reports to Associate Deputy Director, OCSE; Deputy Director, OCSE; and to me.

While all of these parties have "official" responsibility for the auditors, as a practical matter, the day-to-day operations of the Audit Division are managed within the Audit Division. Audit management decisions, unless they have ramifications of a regional or national basis, are made as close as possible to where the actual audit work is performed.

Question 19. Are the OCSE auditors organizationally located outside the staff or line management functions of the unit under audit?

Answer All OCSE auditors are located outside the staff and line management functions of the unit under audit. Audits are conducted of State and local programs; OCSE auditors are Federal employees.

Question 20. When the auditors audit a State program that is supervised by a Regional Office, do you consider the Regional Office separate from the unit under audit? Are audits conducted of the Regional Offices?

Answer The first point which needs to be clarified is the notion that the State program is supervised by a Regional Office. This is not a factual representation of the situation. The operation of a child support program in any particular State is the responsibility of that State and in no way is "supervised" by the Federal Office of Child Support Enforcement. Guidance, policy and technical assistance, and federal funds are all provided to the States to enable them to operate effective and efficient programs. However, none of this could or should be construed as line "supervision" of a State program by the Federal Regional Office of Child Support Enforcement.

The major focus of all audits conducted by the OCSE Audit Division is the operation of the State or local government's child support program. It is the auditee's records, policies and procedures that are reviewed, discussed and evaluated.

There have never been any audits conducted of the OCSE Regional Offices by auditors of the OCSE Audit Division. We have no specific authority in the law for such internal audits. Other audit groups such as the HHS Inspector General and the U.S. General Accounting Office have reviewed select aspects of the program as well as Regional Office operations.

Question 21. Have the area auditors been denied an opportunity to obtain explanations by officials of the organizations, programs, or activity under audit? Can auditors obtain these explanations?

Answer Auditors have never been denied an opportunity to obtain explanations by officials of the organizations, program, or activities under audit. The only changes which have occurred in the operations of the auditors is the attempt to shift the responsibility for providing case information to the States under audit. The process for obtaining information pursuant to AT 87-7 works as follows:

a) The auditor requests the case information from the State;

b) If after analysis by the auditors, there are questions which still need to be answered, then the auditors contact the State agency for the requisite information; and

c) If, after this additional information is received, reviewed and analyzed, there are still questions as to the disposition of the case, then the auditors with the approval of their supervisor, are free to go to the source to obtain further information.

Question 22. How much time is allowed for an audit?

Answer The amount of time necessary to conduct an audit varies with the organizational configuration of the State and the type of audit being conducted. As a general rule, Audit Division management allocates as much time as is necessary to conduct a complete audit, conducted in accordance with professional auditing standards.

Question 23. Are the Area Auditors independent from the Regional Administrators?

Answer Yes, the Area Office Auditors are independent from the FSA Regional Administrators. The only involvement that the Regional Administrators have with the Area Audit Offices has been detailed in the response to question number 11.

Question 24. Do you believe that the new audit procedures will allow States to devote more time to providing IV-D services? If so, what evidence can you provide to support this view?

Answer More or less time really seems immaterial; the real issue is whether the new audit procedures will help to enhance the effectiveness and efficiency of the Child Support Enforcement program. Here, my answer is an unequivocal "yes."

The audit procedures will further motivate the States to improve the control, tracking, and management of their child support cases. For those States with good means of accomplishing this already, the audit procedures pose little additional effort; the case listing information, for example, is simply a by-product of their ongoing operations, not some special add-on for Federal audit purposes. The others have difficulty not because of a change in audit procedures; those States have a much more basic problem, which is reflected in their performance and level of public service, in simply tracking, controlling, and managing their child support caseload.

Over the years, OCSE has found that States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness. The procedural changes at issue should, consequently, be advantageous to everyone in our goals of providing better child support services, expediting the audit and penalty process, putting in place better case management and control, and enhancing State child support agency responsibility.

Question 25. Is it true that under previous audit procedures much of the work involved with gathering case information was done on site by OCSE auditors? If so, were the costs of these activities entirely covered out of Federal funds? If the States must now perform these activities in order to send the information to a central location, does this shift 32 percent of the cost of these new State activities from the Federal government to the States? Are these costs included as administrative costs when calculating State incentive payments?

Answer Even under past audit procedures, much of the information was gathered by the auditee and reviewed by the auditors on site. Over the last ten years, the OCSE auditors gradually got away from the practice of actual hands-on pulling of case files for audit purposes. In most instances; the auditee, be it a State or local entity, would receive, in advance of site audit work, a listing of sample cases selected for review. The auditee then had the responsibility to gather all relevant information for these cases and have them ready for review when the auditor arrived on site. To reduce the amount of time necessary to complete an audit, as well as in response to States requests, the audit staffs over the years, moved away from pulling cases from an auditee's files, searching offices for case files that were missing, or filing away cases after review. Therefore, the new procedures have not changed the auditee's workload as radically as it might appear at first.

Moreover, since 1976, Federal regulations require that "Each State shall make available to the Office such records or other supporting documentation as the Office's audit staff may request. The State shall also make available personnel associated with the State's IV-D program to provide answers which audit staff may find necessary in order to conduct or complete the audit".

All attendant State costs are reimbursed at the prevailing Federal financial participation rate. Such administrative costs are included when calculating State incentive payments. However, any potential negative impact on the level of incentive payments is surely insignificant when contrasted with the financial payoff to State and local government, and the service to the public, that will flow from the improvements in case control, monitoring, and case management described in the previous answer.

Question 26. Some States claim that they cannot provide a complete case listing because they are not automated. Your answer to them is to automate, yet OCSE has not expedited State automation. What are you currently doing to facilitate automation?

Answer Since 1982, OCSE has undertaken a number of activities to promote automation. A chronology of these actions already has been provided to the Committee. OCSE has held national systems conferences for 3 years to provide a forum for States to exchange information on statewide, comprehensive systems. In addition, guidelines and technical assistance documents were published.

Following enactment of the Child Support Enforcement Amendments of 1984 which resulted in greater uniformity among State child support programs, we began to strongly urge transfer of tested and proven systems from one State to another. As a result of these concerted efforts, 37 States already have statewide comprehensive projects underway.

Question 27. **How many States have approved advanced planning documents for their automated systems? How many States are implementing systems on the basis of an approved plan? How many States have fully implemented automated systems? Of these States, how many have indicated they can comply with the new audit procedures? In answering these questions, please identify the States.**

Answer Thirty-nine states have approved advance planning documents for their automated systems.

CONNECTICUT
VERMONT
NEW YORK
NEW JERSEY
DELAWARE
VIRGINIA
GEORGIA

MAINE
NEW HAMPSHIRE
RHODE ISLAND
SOUTH CAROLINA
ILLINOIS
DISTRICT OF COLUMBIA
MARYLAND
PENNSYLVANIA
WEST VIRGINIA
FLORIDA
KENTUCKY
KANSAS

ARKANSAS
NEW MEXICO
OKLAHOMA
IOWA
COLORADO
SOUTH DAKOTA
HAWAII
IDAHO
MINNESOTA
WISCONSIN
ALABAMA
MICHIGAN
ARIZONA
TENNESSEE
INDIANA
OHIO
WYOMING
UTAH
MISSISSIPPI
NEBRASKA

States implementing systems on the basis of an approved plan are:

CONNECTICUT
NEW JERSEY
VIRGINIA
GEORGIA
ARKANSAS
NEW MEXICO
OKLAHOMA
IOWA

COLORADO
SOUTH DAKOTA
HAWAII
IDAHO

States that have fully implemented automated systems are:

NEW YORK

VERMONT

DELAWARE

States that have indicated that they can comply with the new audit procedures are identified in the response to question 5.

Question 28. Congress enacted 90 percent Federal funding for development of automated systems in 1980. When did HHS approve the first State APD? Which States are currently receiving the 90 percent match?

Answer HHS approved the first State APD at the 90 percent funding rate in April 1982.

Thirty-seven States currently receiving the enhanced 90 percent Federal match rate are:

15 STATES IMPLEMENTING SYSTEM - FY 1988

CONNECTICUT (TRANSFER)

VERMONT (COMPLETED)

NEW YORK (COMPLETED)

NEW JERSEY

DELAWARE (COMPLETED)

VIRGINIA (TRANSFER)

GEORGIA

ARKANSAS

NEW MEXICO

OKLAHOMA

IOWA

COLORADO

SOUTH DAKOTA (TRANSFER)

HAWAII (TRANSFER)

IDAHO

9 STATES TRANSFERRING/DEVELOPING SYSTEMS

MAINE

NEW HAMPSHIRE

RHODE ISLAND (TRANSFER)

ALABAMA (TRANSFER)

SOUTH CAROLINA

ILLINOIS

MINNESOTA (TRANSFER)

WISCONSIN (TRANSFER)

MICHIGAN (TRANSFER)

13 STATES PLANNING TRANSFERS

DISTRICT OF COLUMBIA
MARYLAND
PENNSYLVANIA
WEST VIRGINIA
FLORIDA
KENTUCKY
MISSISSIPPI
TENNESSEE
INDIANA
OHIO
WYOMING
UTAH
ARIZONA

Two States currently receiving the regular Federal match rate are:

2 STATES WITH APPROVED APDs AT THE REGULAR MATCH

KANSAS
NEBRASKA

Question 29. You have encouraged States to transfer computer systems from other States rather than create new ones. Which States have successfully done this?

Answer States currently transferring systems are:

CONNECTICUT
VIRGINIA
SOUTH DAKOTA
HAWAII
MAINE
NEW HAMPSHIRE
RHODE ISLAND
ALABAMA
MINNESOTA
WISCONSIN
MICHIGAN

Question 30. When do you project that all States will be fully automated?

Answer Given the status of current efforts, we believe that all States could be fully automated by FY 1993.

MATERIAL FOR QUESTION 4

BLAIR BUILDING
8007 DISCOVERY DRIVE
RICHMOND, VIRGINIA 23229-8699
(804) 281-9204

WILLIAM L. LUKHARD
COMMISSIONER

COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

June 18, 1987

87 JUN 24 PM 3 10

Mr. Wayne A. Stanton, Director
Office of Child Support Enforcement
Department of Health & Human Services
Washington, DC 20201

Dear Mr. Stanton:

We have reviewed your letter of June 5, 1987, concerning new procedural requirements for audits beginning with the Federal fiscal year of October 1, 1986. These procedures cause us great concern regarding the expenditure of time and resources to meet the requirements outlined.

We will have to do special programming to prepare the lists of cases in the manner you require. This will take approximately three weeks of programming time. More disturbing, however, is the detail asked for in Federal Fiscal Year 1988 and after. Information regarding type of service is not typically captured on computer systems, and therefore will require manual review of 300,000 cases to be able to identify the child support services you wish listed. We do not believe it is the intent of section 305.13 of the Audit Regulations to impose undue burdens on States when audit needs may be satisfied by less costly methods. We recommend as an alternative approach you select cases from a listing of case numbers and then the states provide the necessary information for those. We certainly agree that sending the cases selected for review to one location is reasonable and will aid in expediting your audits.

We strongly suggest that you reconsider your requirements. Scarce resources need to be concentrated on providing child support services rather than facilitating audits.

We would welcome an opportunity to discuss this matter with you.

Very truly yours,

William L. Lukhard

William L. Lukhard

WLL/RWW/rcs
copy: Mr. Alexander Porter
Regional Administrator
Region III

Mr. Harry Wiggins
VA Director, DCSE

*An Equal Opportunity Agency*

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington D.C. 20201

JUL 24 1987

Mr. William L. Lukhard
Commissioner
Department of Social Services
Commonwealth of Virginia
Blair Building
8007 Discovery Drive
Richmond, Virginia 23229-8699

Dear Mr. Lukhard:

In reply to your June 18 letter regarding the new procedural requirements for audits, please be advised that the data requested as to type of service(s) required on each case, should be readily available from Virginia's new federally-funded Automated Child Support Enforcement System (ACSES) once it becomes fully operational.

The mere submission of a list of case numbers from which the auditors would make the sample selection, as you suggested, does not meet the objectives of the new approach by which the number of case samples selected for review will be based on the universe of cases in each programmatic service area.

With regard to your statement that "scarce resources need to be concentrated on providing child support services rather than facilitating audits," we are convinced that the changes will expedite the audit process and thereby permit State and local IV-D agencies to devote more time to the provision of services. Therefore, I strongly recommend that Virginia make every effort to develop its ACSES system as quickly as possible and in compliance with Federal requirements, in order to take full advantage of the new audit procedures.

If we may be of any further assistance, please contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE at (202) 245-1675.

Sincerely,

Wayne A. Stanton

Wayne A. Stanton
Director

cc: Mr. Alexander Porter
OCSE Regional Representative, Region III

Ms. Eva S. Teig
Secretary of Human Resources

**Edward T. Duffy**
Director

**Illinois Department of Public Aid**
Jesse B. Harris Building
100 S. Grand Avenue East
Springfield, Illinois 62762

1987 JUL -6 PM 4:46
RECEIVED

June 29, 1987

Wayne A. Stanton, Director
Office of Child Support Enforcement
Department of Health and Human Services
Washington D.C. 20201

Dear Mr. Stanton:

Your letter dated May 29, 1987, announced new procedural requirements to support Child Support compliance audits. For FFY 1987, you are requiring a listing of the IV-D caseload as of January 1, 1987. For FFY 1988, you are requiring the listing plus detailed information on child support services for each case as of October 1, 1987.

You also indicated that records for selected sample cases must be brought to one location for review.

Due to the size of the Illinois caseload - approximately 600,000 cases - the requested listings would be extremely large reports. In regard to centralizing records, you did not define the records to be examined; therefore, we cannot readily gauge the impact of your request.

We have numerous questions relative to your request and we would like an opportunity to obtain more detail and to explore alternative ways to fulfill your needs.

Accordingly, please have your designee contact Mr. Robert J. Schwarz, Chief, Bureau of Internal Audits at (217) 782-1156 to arrange a meeting.

Sincerely,

Edward T. Duffy

Edward T. Duffy

ETD:RJS:lb

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

SEP - 9 1987

Mr. Edward T. Duffy
Director
Illinois Department of Public Aid
Jesse B. Harris Building
100 S. Grand Avenue East
Springfield, Illinois 62762

Dear Mr. Duffy:

This correspondence is in reply to your recent letter of June 29, in which you cited several concerns and expressed a need for more details regarding my May 29 announcement of the new procedural requirements for the OCSE audits. The procedural changes, outlined in my letter and detailed in OCSE Action Transmittal 87-7, a copy of which is enclosed, will enhance the States' efforts to improve their control, tracking and management of cases. We have found that those States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness. Therefore, these procedural changes will be advantageous to both the Federal OCSE and States in our goals of: providing better child support services; expediting the audit and penalty process; establishing better case management and control; and enhancing State IV-D agency responsibility.

I believe that this Action Transmittal will respond to the questions and concerns alluded to in your letter.

I invite you to review this document and contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE, should you still wish to offer any further comment on this matter.

Sincerely,

Wayne Stanton

Wayne A. Stanton
Director

Enclosure

cc: Ms. Marion Steffy
OCSE Regional Representative, Region V

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington D C 20201

Ms. Linda S. McMahon
Director, Department of Social Services
California Health and Welfare Agency
744 P Street
Sacramento, California 95814

AUG 21 1987

Dear Ms. McMahon:

In reply to your letter of July 2 regarding changes to the Child Support Enforcement audit procedures, I am not in agreement with your overall position that the new requirements will "detract from the effective child support program management" in California or, for that matter, any other state. Moreover, with specific reference to your comments about the individual, "dynamic" file system maintained by the counties in California, I find it inconceivable that any automated case management system would neither maintain an audit trail of activities on specific cases nor provide the status of cases at a given point in time.

With regard to your remarks concerning the submission of case files and records to one central location for audit analyses, I am sure you are aware that a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews. In addition, you should know that the costs involved in accumulating, duplicating and furnishing the data for audit purposes is fully reimbursable at the regular rate of OCSE's Federal financial participation.

Lastly, I am confident that you realize that the recent changes are clearly supportable under current law and regulations. As a by-product of their operational activities, jurisdictions with adequate child support case management and tracking systems should be able to readily and almost instantly comply with the new procedures and thereby accelerate the entire child support enforcement audit process.

I invite you to contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE, should you wish to offer any further comment on this matter.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

cc: Ms. Sharon Fuji
OCSE Regional Representative, Region IX

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street, Sacramento, CA 95814

1987 JUL 13 PM 1:27
RECEIVED
FAMILY SUPPORT [illegible]

July 2, 1987

Mr. Wayne A. Stanton, Director
Family Support Administration
Department of Health and Human Services
Humphrey Building, Room 639 H
Washington, D.C. 20201

Dear Mr. Stanton:

This is in response to your letter to Mr. Clifford L. Allenby outlining proposed child support audit criteria. I believe the procedural requirements as described in your letter will detract from effective child support program management.

As you know, California counties have their own case file systems. Even the most advanced counties maintain "dynamic" files. That is, they know what the status of the case is right now, not what it was at some previous point in time. To comply with the new audit program, almost all counties would have to divert staff from productive work to reconstruct a list solely for audit purposes.

The second procedural change presents a major concern for California. You are requiring that all sample cases and supporting documentation be forwarded to a central location where audit staff will review them in total isolation from input by State and County staff. To correctly review the case, the audit staff must have not only copies of all the pertinent case information, but copies of all the instructions and definitions on how to use a case file, as well as copies of all the County's procedures and policies regulating the child support operation. This also adds a considerable workload and cost on the State and counties. Staff will be involved in extensive duplicating, reviewing, controlling, following up and transmitting all the various copies of procedures, records and supporting documentation.

In the past year, I have received communications from you which addressed program improvements and increased collections. The proposed audit procedures, instead, will work to divert resources away from more productive areas. As a result, there will be a cost shift from the Federal level to the State/local level without any apparent program improvements.

Because this represents a significant change in the child support program and because failure to comply could result in severe penalties for non-compliance, we recommend that these changes go through the regulation process with the resultant review by other Federal agencies and the public comment process.

If you have any questions, please feel free to contact me at (916) 445-2077 or Mr. Robert Horel, Deputy Director, Welfare Program Division at (916) 322-2214.

Sincerely,

Linda S. McMahon

LINDA S. McMAHON
Director

10/24/88

Prepared by FSA, OCSE Policy and Planning Division. While reasonable effort has been made to avoid errors and omissions, this document is not intended to be a substitute for the original laws.

## PART D--CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

### APPROPRIATION

Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children and the spouse (or former spouse) with whom such children are living, locating absent parents, establishing paternity, obtaining child and spousal support, and assuring that assistance in obtaining support will be available under this part to all children (whether or not eligible for aid under part A) for whom such assistance is requested, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

### DUTIES OF THE SECRETARY

Sec. 452. (a) The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall-

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the absent parent's child is living ~~as he determines to be necessary to assure that such programs will be effective~~;

~~(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;~~

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2)), conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity;

Child Support LAWS

88-249 727

### DUTIES OF THE SECRETARY

SEC. 452. [42 U.S.C. 652] (a) The Secretary shall establish, within the Department of Health and Human Services a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support and support for the spouse (or former spouse) with whom the absent parent's child is living as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than once every three years (or not less often than annually in the case of any State to which a reduction is being applied under section 403(h)(1), or which is operating under a corrective action plan in accordance with section 403(h)(2)), conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of the costs incurred in collecting such amounts;

(7) provide technical assistance to the States to help them establish effective systems for collecting child and spousal support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453; and

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the following data, with the data required under each clause being separately stated for cases where the child is receiving aid to families with dependent children (or foster care maintenance payments under part E), cases where the child was formerly receiving such aid or payments and the State is continuing to collect support assigned to it under section 402(a)(26) or 471(a)(17), and all other cases under this part:

(i) the total number of cases in which a support obligation has been established in the fiscal year for which the report is submitted, and the total amount of such obligations;

(ii) the total number of cases in which a support obligation has been established, and the total amount of such obligations;

(iii) the number of cases described in clause (i) in which support was collected during such fiscal year, and the total amount of such collections;

(iv) the number of cases described in clause (ii) in which support was collected during such fiscal year, and the total amount of such collections; and

(v) the number of child support cases filed in each State in such fiscal year, and the amount of the collections made in each State in such fiscal year, on behalf of children residing in another State or against parents residing in another State;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 402(a)(26)(B)(ii));

(G) data, by State, on the use of Federal courts and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government;

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report, and

(I) the amount of administrative costs which are expended in each functional category of expenditures, including establishment of paternity.

The information contained in any such report under subparagraph (A) shall specifically include (i) the total amount of child support payments collected as a result of services furnished during the fiscal year involved to individuals under section 454(6), (ii) the cost to the States and to the Federal Government of furnishing such services to those individuals, and (iii) the extent to which the furnishing of such services was successful in providing sufficient support to those individuals to assure that they did not require assistance under the State plan approved under part A.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954[77] the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6). No amount may be certified for collection under this subsection except the amount of the delinquency under a court or administrative order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the Secretary of the Treasury for any costs involved in making the collection. All reimbursements shall be credited to the appropriation accounts which bore all or part of the costs involved in making the collections. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c)(1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2)) into such fund under section 6305 of the Internal Revenue Code of 1954[78].

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954[79], reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding sentence shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed management system referred to in section 455(a)(1)(B), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) contains an implementation plan and backup procedures to handle possible failures,

(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

(G) provides such other information as the Secretary determines under regulation is necessary.

(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(1)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16).

(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(1)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(1)(B).

(f) The Secretary shall issue regulations to require that State agencies administering the child support enforcement program under this part petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to

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[77] See footnote 31.

[78] See footnote 31.

[79] See footnote 31.

M. SUGARMAN
Secretary

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

1987 JUL -8 PM 4:20
RECEIVED
FAMILY SUPPORT ADMIN

July 2, 1987

Mr. Wayne A. Stanton
Administrator, Family Support Administration
Department of Health and Human Services
330 Independence Avenue
Room 5600 North
Washington D. C. 20201

Dear Mr. Stanton:

The state of Washington is in agreement with your efforts to conduct audits in a more timely manner. I also see audits as an important management tool for you and the states involved. However, the procedural requirements, as outlined in your letter of May 29, 1987, would place an unmanageable burden on this state.

For example, the new procedures require the states to produce a listing each year of the entire IV-D caseload by function, i.e., locate, enforcement, etc. Washington has the most highly automated child support program in the nation. However, cases are not classified by function. There is no federal regulation requiring states to do so, and there is no benefit of such classifications to the state child support program.

Producing such a listing would require a manual search and classification of some 300,000 cases currently on our computer system. This alone would take over 25,000 staff hours. Once cases were classified by function, the data would have to be maintained and updated on each case.

The requirement that states copy and send records to one central location is of equal concern. It would consume a great deal of staff time to copy the case records. More important, however, is the issue regarding the confidentiality of the case records; especially as it relates to paternity cases. Once records are copied and allowed to leave an office, it becomes very difficult to ensure compliance with the confidentiality requirements of state and federal law.

Additionally, it is not correct to assume that an auditor can come to the proper conclusion based solely upon a copy of the case file. Auditors are not experts in the mechanics of each state's child support program. Even individuals who are experts, must often consult with the caseworker to fully understand what has transpired.

AUG Recd 7

Mr. Wayne Stanton
July 2, 1987
Page Two

The need for auditors to consult with caseworkers was recognized when the audit regulations were written. Title 45 CFR 302.13 states, in part, that "The state shall also make available personnel associated with the State's IV-D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit."

New and more efficient ways to conduct audits must be developed, and the state of Washington would be happy to assist in any way possible. Procedural changes, however, must not inhibit a state from performing its primary responsibility which is to collect child support.

Sincerely,

Jule Sugarman

JULE M. SUGARMAN
Secretary

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington D.C. 20201

SEP - 4 1987

Mr. Jule M. Sugarman
Secretary
Washington Department of Social and Health Services
Mail Stop OB-44T
Olympia, Washington 98504

Dear ~~Mr. Sugarman~~: Jule,

This letter is in reply to your correspondence of July 2, 1987, in which you raised objections to the State of Washington's compliance with the recently mandated changes to the OCSE audit procedures.

As to your initial contention regarding the "unmanageable burden" which this requirement places upon your State, to compile the IV-D caseload listings by function manually, I do not concur with your position. We have in the past encouraged states to automate with enhanced funding and put their data on systems to control same. While it is true that Washington has one of the most highly automated child support programs in the Nation, I find it difficult to believe that from a case management standpoint, that any automated case management system would not provide the status of cases at a given point in time.

With regard to your remarks concerning the submission of case files and records to one central location for audit analysis and the issue of maintaining the confidentiality of the information, I am sure that you are aware that a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews. In addition, you should know that the costs involved in accumulating, duplicating and furnishing the data for audit purposes is fully reimbursable at the regular rate of OCSE's Federal financial participation. Your concerns over the maintenance of confidentiality of case records can be handled through restricted handling on the part of state personnel coupled with registered mailing of the duplicate materials and routine action by OCSE auditors in securing the case records. We are confident that auditors' thorough knowledge of the requirements for compliance with the security criteria will ensure that these records are safe from unauthorized disclosure.

As to your comment that "it is not correct to assume that an auditor can come to the proper conclusion based solely upon a copy of the case file," you must understand that it is the IV-D agency's responsibility to ensure that each case file contains the data and documentation for the auditors to determine whether a case action was required and taken. You must realize the new procedures which we prescribe are the only economical ones possible. We believe that, in most instances, contact with the state or local staff necessary to obtain additional information, can be accomplished over the telephone. We simply cannot afford to have our auditors running all over the state looking into file drawers and talking with hundreds of individuals to see if the Federal laws are being followed.

In your closing paragraph, you mention that while new and more efficient ways to conduct audits must be developed, you infer that these procedural changes will inhibit a state from performing its primary responsibilities of collecting child support. On the contrary, we are convinced that the changes will expedite the audit process and thereby permit State and local IV-D agencies to devote more time to the provision of services. Moreover, better case management should enable the State to provide support enforcement services more effectively and efficiently thereby reducing costs and increasing collections.

Should you wish to offer any further comment on this matter, please direct them to me or Mr. Robert C. Harris, Associate Deputy Director, OCSE.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

cc: Robert C. Harris
Associate Deputy Director, OCSE

Ms. Natalie Dethloff
OCSE Regional Representative, Region X

P.S.
Jule, enclosed is a copy of the "A.T." for your information.
Kindest regards,
Wayne

Board of Directors

Governor Guy Hunt
*Chairman*
Dr. John Nixon
*Vice Chairman*
Mrs. Kay K. Miller
*Secretary*
Ms. Beverly Ward
Mrs. Carolyn Casey
Mr. Michael Manasco
Mrs. Ilene Mann

State of Alabama
Department of Human Resources

64 North Union Street
Montgomery, Alabama 36130

Andrew P. Hornsb
*Commissioner*

1987 JUL 14 AM 11:50
RECEIVED
FAMILY SUPPORT ADMIN

July 7, 1987

Mr. Wayne Stanton, Director
Office of Child Support Enforcement
Department of Health & Human Services
Washington, D.C. 20201

Dear Mr. Stanton:

This is in reply to your recent letter regarding new procedural requirements relative to OCSE audits.

First, let me state that since my appointment as Alabama's IV-D Director in 1981, I have considered our program to be in partnership with OCSE in attempting to provide effective child support enforcement services. Though we have at times differed in philosophy, practice and procedure with OCSE, that relationship has been constructive and generally speaking, reciprocal. Recently however, I have observed a change in the tone and content of OCSE directives, correspondence and policy. I now find States treated more as adversaries than as partners, mistrusted rather than trusted and impaired rather than facilitated. I must say that your policy on the State's role in audits, more than any recent OCSE requirement, puts us in an adversarial role.

We cannot now provide you with the listings and data required for audits conducted in FY '87. That problem is academic since field work was just completed by OCSE audit staff on an audit now almost complete. Neither can we provide you with the data required for audits occurring in FY '88 and thereafter. Extensive costly changes would be required in any State's automated system to produce this data.

We cannot send the files you reference to a central location for two reasons; one, the records are needed for ongoing child support enforcement in the jurisdiction being audited and two, we do not control most of the collection records needed. Clerks of Court, not under cooperative agreement, are responsible for maintaining collection records in this State in over 30 counties. We have no authority to force them to send records to a central point.

Frankly, however, my most serious objection deals with the philosophy of audit that your new policy reflects. Effective audits are those designed to assist and produce improvement as well as to produce conformity. The audit approach you are advancing will do little or none of the former. It is essential that auditors know the context of the program being reviewed. Performance cannot be measured in a sterile, record-review environment. Some of the most useful findings of OCSE audits in the past have dealt with local system problems, communication and relationship breakdowns and procedural roadblocks. None of these barriers to performance would be identified in a mere recor review.

I do not debate the requirements in 305.13, State cooperatio in annual audit. However, I direct your attention to 305.10, which requires OCSE to perform a "comprehensive" review to determine effectiveness. The audit method you have proposed is neither comprehensive nor sufficient to determine effectiveness. In the case of States being penalized, 305.10 requires OCSE to "make a critical investigation of the State's IV-D program throug inspection, inquiries, observation and confirmation." These approaches bear no resemblance to centralized record reviews.

Your issuance of this policy exceeds the rule-making authori of your office. There has been no opportunity for public review and comment on an issue of this magnitude. We would certainly challenge any sanction which OCSE attempted to impose based on audit findings produced by the audit methodology you propose to change. I am asking that you withdraw this policy and consult with IV-D administrators on this issue before further changes are made in audit procedures.

Sincerely,

Paul Vincent

Paul Vincent, Director
Child Support Enforcement Division

PV:lm

cc: Suanne Brooks

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D C 20201

AUG 21 1987

Mr. Paul Vincent
Director, Child Support Enforcement Division
Alabama Department of Human Resources
64 North Union Street
Montgomery, Alabama 36130

Dear Mr. Vincent:

This correspondence is in reply to your letter of July 7, in which you cited several objections as to why Alabama could not comply with my recently-announced changes to the OCSE audit procedures.

As to your objection concerning the State's inability to provide complete IV-D case listings, I can offer no real consolation or exemption from this requirement. As you know, the Federal OCSE has, for the past several years, strongly encouraged states to automate their IV-D case management and tracking system and the law provides enhanced (90%) federal matching funds to that same end. I hope that the job will not be too disruptive when you do it manually.

With regard to your comment on the submission of original case files to a central location for audit review, you should note that only duplicate copies of the case files and related records will be required and accepted for audit analyses. Retention of original case records at the local IV-D unit will, as you pointed out, permit the ongoing provision of child support services. In addition, the designated single and separate State IV-D agency will be held responsible for obtaining case documentation from all units involved in providing child support services throughout the state.

Concerning your general comment that the audit changes have placed the Federal OCSE and states in an "adversarial role," you should recognize that these changes make the IV-D agency accountable and responsible, as it should be, for the state's overall child support enforcement operations. Furthermore, your contention that the new audit procedures violate the letter and intent of the Audit regulations -- requiring that the audits constitute a "comprehensive review" and "critical investigation" of the state's program -- is unfounded.

I invite you to contact me or Robert C. Harris, Associate Deputy Director, OCSE, should you wish to offer any further comment on this matter.

Sincerely,

Wayne A. Stanton

Wayne A. Stanton
Director

cc: Ms. Suanne Brooks
OCSE Regional Representative, Region IV

Mr. Dick Kelsey
Administrative Assistant for Family Affairs
Office of the Governor

JAMES L. SOLOMON, JR.
COMMISSIONER

**South Carolina**
**Department of Social Services**
OFFICE OF CHILD SUPPORT ENFORCEMEN
POST OFFICE BOX 1469
COLUMBIA, SOUTH CAROLINA 29202-146

Legal (803) 737-9902 Program (803) 737-99

July 13, 1987

1987 JUL 20 AM 11:12

Mr. Wayne A. Stanton, Director
Office of Child Support Enforcement
Department of Health and Human Services
330 Independence Avenue Southwest
Room 5600/North Building
Washington, D. C. 20201

Dear Mr. Stanton:

Our office is in receipt of your letter of May 29, 1987, concerning Program Results Audits of the State IV-D Programs. I would like to take this opportunity to comment on two provisions contained in this letter.

In relation to the requirement that the State provide a listing of its entire IV-D caseload as of January 1, 1987, at this time in South Carolina, compliance with this requirement is a virtual impossibility. As you are aware, our State is not far away from implementation of the IV-D automated system. Conversion of the cases is scheduled to begin in October 1987, with completion in April 1988. It will not be until after this date that any such list can be provided to Federal auditors. Prior to case automation, only a manually composed list can be developed. The undertaking of such an effort would cause a tremendous hardship and disruption to the Program. This manual process would bring our operation practically to a standstill. In addition, it would be an ineffective use of staff time, considering that the cases will be automated within a relatively short time frame.

I would further like to comment on the requirement that auditors' judgments and conclusions are to be solely based on the contents of the case record. In most instances, the case record should stand by itself. However, an auditor's conclusions are based on an individual's interpretation of an accounting of

JUL 22

South Carolina Board of Social Services
R. JAMES AYCOCK III, CHAIRMAN, AT LARGE
GEORGE D. HAMILTON, MEMBER, FIRST DISTRICT
DR. OSCAR P. BUTLER JR., MEMBER, SECOND DISTRICT
BETTY C. DAVENPORT, MEMBER, THIRD DISTRICT
JOHN K. EARLE, MEMBER, FOURTH DISTRICT
DR. AGNES H. WILSON, MEMBER, FIFTH DISTRICT
MELVIN B. NICKLES JR., MEMBER, SIXTH DISTRICT

occurrences and may require a verbal explanation. Instead of saving time for the Federal Office, I feel this practice could drag out the audit process through extended written comments between the State and the Federal Office. I strongly feel that it is in both the State's and the Federal Office's best interest that the auditor have the opportunity to discuss cases with Program staff.

It is my hope that you will seriously consider these comments.

Sincerely,

James L. Solomon, Jr.

James L. Solomon, Jr.
Commissioner

JLSjr:mmf

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

AUG 21 1987

Mr. James L. Solomon, Jr.
Commissioner, Department of Social Services
Office of Child Support Enforcement
Post Office Box 1469
Columbia, South Carolina 29202-1469

Dear Mr. Solomon:

This letter is in reply to your correspondence of July 13 in which you raised objection to South Carolina's compliance with the recently mandated changes to the OCSE audit procedures.

As to your initial contention regarding the "tremendous hardship and disruption to the program" to manually compile the IV-D caseload listings, I candidly do not concur with your position. We have in the past encouraged states with 90% federal funding to automate and put their data on systems to control same. However, for those who have not done so, I see no alternative but to do it manually.

With respect to your comment about the requirement that the "auditors' judgments and conclusions are to be based solely on the contents of the case record," you must understand that it is the IV-D agency's responsibility to ensure that each case file contains the data and documentation for the auditors to determine whether a case action was required and taken. You must realize the new procedures which we prescribed are the only economical ones possible. We simply can't afford to have our auditors running all over the state looking into file drawers and talking with hundreds of individuals to see if the federal laws are being followed. That's not really the role of auditors.

In general, the changes in audit procedures are intended to expedite the entire audit process. The changes will also make the state IV-D agency accountable and responsible, as it should be, for overall child support enforcement operations.

Should you wish to offer any further comment on this matter, please direct them to me or Mr. Robert C. Harris, Associate Deputy Director, OCSE.

Sincerely,

Wayne A. Stanton

Wayne A. Stanton
Director

cc: Ms. Suanne Brooks
OCSE Regional Representative, Region IV

P.S. Leonard, there will be an "Action-Transmittal" coming out real soon which will clarify some
[illegible]

STATE OF MICHIGAN

JAMES J. BLANCHARD, Governor

**DEPARTMENT OF SOCIAL SERVICES**

300 South Capitol Avenue, P.O. Box 30037, Lansing, Michigan 48909

C. PATRICK BABCOCK, Director

July 30, 1987

Mr. Wayne Stanton, Director
Department of Health & Human Services
Family Support Administration
Office of Child Support Enforcement
330 C Street, S.W., Room 2086
Washington, D.C. 20201

Dear Mr. Stanton:

Your letter of May 29, 1987 stated that procedures for auditing case records in the Child Support Program will be modified. The State of Michigan will be unable to comply with your request until after our planned Child Support Enforcement System (CSES) is installed and fully operational. We urge that you reconsider these exceedingly stringent and costly requirements which are being proposed "to conduct the audit and issue the audit report in a more timely manner."

Our initial objection concerns the availability of listings. Sites that are "manual" (there is no statewide computer capability) would experience an inordinate amount of work to compile a list even on a "current status" basis. Computerized locations would also have difficulty in re-constructing case status on a retroactive basis ("as of January 1, 1987") because of daily changes. In Michigan, the listings would have to include over 500,000 entries; a substantial portion of them compiled manually from a total caseload of close to 700,000 cases.

Adding functional categories by October 1, 1987 would necessitate massive re-programming in computer counties. "Tagging" would have had to begin months ago in manual locations. Not only are the functional categories unclear, the logic of their necessity for other than this purpose is lacking. Creation of an expensive complex system to satisfy a limited need is not a reasonable request.

Assuming the audit, as in years past, would select cases from only four or five counties, exerting the effort you would require regarding all 83 counties (and several sites at each) is redundant, inefficient and counter-productive.

We also question the necessity of forwarding selected case records to a central site. This appears to be an attempt to reduce direct audit costs while misproportionately increasing costs to

Rec'd
JUL 31 1987

be initially borne by the states (albeit subject to FFP). In addition, such a process lacks efficacity to the over all program. Either case record hard copies will have to be duplicated or, by sending the original documents to a central site, their use to IV-D workers will be eliminated while being studied by auditors. Neither method is satisfactory or cost beneficial. Moreover, there may be case record documents in some instances which are non IV-D. By being otherwise confidential, these documents should not be subject to custody of federal auditors. Controlling agents would have to either relinquish the confidential status or spend extra time sorting out the non-IV-D material.

The hard line position that auditors will only consider case file information and other centrally provided information is also unreasonable. It is our belief that the audit process benefits by the asking of questions, the provision of clarifications and the obtainment of specially identified material. This is especially true when an auditor is unfamiliar with local nuances of case identification, how procedures written locally are "translated" from federal requirements or because an auditor is familiar with only programs in other states. I'm sure your California based auditors who recently assisted in Michigan would attest to this!

Moreover, there is a distinction between information required to be in case files (45 CFR 303.12) and provision of records and reports (45 CFR 302.15) What may legitimately be in a case file from one site may be maintained as a computer record (unbeknownst to the auditor) in another site.

The utilization of hard copy vs. computer records is a variance allowable in the audit process. The decision of which to use is dictated by local (and state level) needs, capabilities and desire. We note that the requirement for listings pre-supposes a computer capability. Yet reliance on hard copy documentation and sending it to a central site pre-supposes a paper system. Following your requirements to the letter would mean the maintenance of dual systems, a truly unrealistic and unnecessary expectation.

Another difficulty is caused by circumstances which are perhaps unique to Michigan. The audit proposal appears to assume that there is only one case record for each IV-D case. Because functional responsibilities are split among three agencies, information on a "case" could be held in up to three "records": those at the department's support specialist local office, those with the county prosecutor and those with the circuit court/friend of the court. With overlapping file material and case numbers, several lists for each "case" would have to be constructed as well as, for those cases selected for audit, several case records for each case submitted to the central site. By having auditors visit the site can these duplications, especially the second, be avoided.

Enclosed is a copy of a letter we received from Michigan's State Court Administrative Office (an arm of the State Supreme Court). In that letter, the administrator, Judge V. Robert Payant, reiterates and substantiates our contentions that various facets of your proposal would be difficult, if not impossible to meet. Instead, an alternative methodology, which would address only court records and not those held by county prosecutors and local Department of Social Services Title IV-D staff, is proposed.

The current audit process, while it is slow, is the only process which will meet the audit requirements in the most comprehensive and least expensive manner. To do as proposed in your May 29, 1987 letter would reflect states "out of compliance" because of audit process not because of lack of action. I urge you to consider the implications of your change in the audit process and delay the change until a more realistic solution can be found.

Sincerely,

C. Patrick Babcock

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

SEP 18 1987

Mr. C. Patrick Babcock
Director
Michigan Department of
Social Services
P.O. Box 30037
Lansing, Michigan 48909

Dear Mr. Babcock:

This letter is in reply to your correspondence of July 30, in which you cited several examples of the difficulties your office will have in complying with my recently announced changes to the Office of Child Support Enforcement (OCSE) audit procedures. The procedural changes outlined in my May 29 letter and detailed in OCSE Action Transmittal 87-7, a copy of which is enclosed, will enhance the State's efforts to improve their control, tracking and management of cases. We have found that those States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness.

Although I understand the complexities the State IV-D agency will encounter fulfilling its responsibilities in developing the IV-D case listings and designating the child support service(s) without a fully automated case management system, I cannot postpone or delay the implementation of these procedures any further.

To me, it is inconceivable that any modern, automated case management system would neither maintain an audit trail of activities on specific cases nor provide the status of both active and inactive cases at a given point in time. The reasons which you mention for not being able to obtain this information are overshadowed by the need to amend case records to reflect events which change the status of the case and which require possible case action.

With regard to your remarks concerning necessitating thousands of documents being duplicated, I would like to point out that only those cases actually selected from the case listings will need to be duplicated and forwarded for audit. In addition, as explained in the Action Transmittal, case files/records can be sent to more than one location, when mutually agreed upon by the OCSE Audit Division and State officials prior to the initiation of audit fieldwork. I am sure that you are aware that a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews. The cost involved in accumulating, duplicating and furnishing the data for audit purposes is fully reimbursable at the regular rate of OCSE's Federal financial participation (FFP).

I disagree with your characterization that "the hard-line position that auditors will only consider case file information and other centrally provided information is also unreasonable." I can assure you that opportunities will continue to exist for the exchange of information between auditor and auditee such as the entrance and exit conference. While it is true that the auditor's judgments and conclusions will be focused on the contents of case records, you must understand that it is the IV-D agency's responsibility to ensure that each file contains the data and documentation for the auditors to determine whether a case action was required and taken. The new procedures which we prescribed are the only economical ones possible. We simply cannot afford to have our auditors traveling all over the State looking into file drawers and talking with hundreds of individuals to see if the Federal law is being followed.

On page three of your letter, you make reference to an enclosure, a copy of a letter from Judge V. Robert Payant, Administrator, Michigan's State Court Administrative Office, offering an alternative method of meeting the proposed requirements. Unfortunately, this enclosure was not included in your correspondence and, therefore, I am unable to comment upon the merits of Judge Payant's proposal.

Should you wish to offer any further comments on this matter, please direct them to me or Robert C. Harris, Associate Deputy Director, Office of Child Support Enforcement.

Sincerely,

Wayne A. Stanton

Wayne A. Stanton
Director

Enclosure

cc: Ms. Marion Steffy
OCSE Regional Representative, Region V

Court of Common Pleas
Judicial Chambers

Nicholas A. Cipriani
Judge

517 City Hall
Philadelphia, Pa 19107
(215) [illegible]6-2600

AUG -6 PM 3:31
RECEIVED

July 30, 1987

Wayne A. Stanton, Director
Office of Child Support and
Family Support Administration
Department of Health and Human Services
Washington, D.C. 20201

Dear Mr. Stanton:

We have been provided with a copy of your letter dated May 29, 1987, to John F. White, Jr., Secretary of the Pennsylvania Department of Public Welfare.

It is critical that we respond from our perspective as the largest jurisdiction in Pennsylvania because of the impact of every federal audit on Philadelphia.

It is not possible or practical for the Philadelphia Family Court to forward a complete list of our entire IV-D caseload including closed and inactive cases. All cases in Philadelphia are not being entered into our computer system. Examples are non-viable cases. Some cases referred by the Welfare Department are opened on the date of referral and closed on the same date. This is true when investigation verifies that the absent parent is deceased. This also occurs in cases such as those where the defendant is in a foreign country with whom we have no reciprocity or in cases where the applicant for welfare who is referred to us has absolutely no information on the father of the child born out of wedlock.

To attempt to refer all cases would require photocopying thousands of referral documents which have accumulated over the last few years. This represents an exercise in futility.

Statistical data in Philadelphia verifies referral of approximately 3,000 applicants for AFDC (prior to authorization of eligibility of welfare) per month. Of these, approximately 30 percent

Rec'd
AUG 17 1987

do not qualify for welfare and many do not request IV-D services. It would be extremely expensive and reduce cost effectiveness if each of these cases were entered into any computer system. This would also result in overloading the data in a computer system and result in more costly data processing services because of the consumption of time in running any of the programs.

To include all closed cases on the list of cases submitted would represent a burden on staff time and would result in very substantial costs for photocopying referral documents. This would be counter productive to the goals of the IV-D program.

Instructions for audits for fiscal year 1988 are equally burdensome. We cannot provide this data on each case. Again all of this information is not programmed in a computer on all cases such as referred to above and would require manual documentation which could only be accomplished by countless manhours.

The procedural change of requiring that all cases selected for audit be sent to one location is again not practical and burdensome. We cannot forward our original record. Therefore, photocopying each record would be required along with multiple copies of printouts from the computer. Many records are voluminous and contain hundreds of pages which include copies of each petition, orders to appear, orders of support, bench warrants, letters, notices, chronological reporting of the events in the case, etc., etc.

However, our strongest objection is to the methodology indicated for the auditors review of the record. It is inconceivable that auditors' conclusions would be made without affording IV-D staff the right to provide explanation or additional clarification and documentation. Accepted standards for auditors would include this right.

Philadelphia has had a federal audit each time an audit has been conducted in Pennsylvania. Our experience has verified that during each audit, both the Court and the Federal Auditors have appreciated the opportunity to discuss cases which are in the audit review. This has proved beneficial, not only to the Court but to the auditors. I believe that the auditors would verify this experience.

Additionally, this Court has had audits by the State, by Philadelphia's City Controller, by an independent, professional firm auditing our data processing systems, etc. Each group of auditors have held an entrance conference with us to discuss the procedures and to explain the sampling techniques which will be applied for the review cases and further explained the methodology they would use during their audit review.

All the auditors have met with staff throughout the period of the audit on a regular basis. At the conclusion of the audit period, all of the auditors have met with staff for an informal exit conference to discuss the contents of the report.

Failure to communicate causes many problems in government and society. Inability to communicate can only reduce the effectivenes of the audit for all concerned.

Further, we believe the above problems are common to all of the counties in Pennsylvania and that all of the counties would share in these opinions.

Please be assured of our committment to child support and the goals of the IV-D program. We acknowledge more needs to be done and assure you that we are constantly striving to improve our effectiveness and efficiency.

We respectfully request your reconsideration of the procedures as outlined in your letter of May 29, 1987.

Sincerely,

With kind regards,

Nicholas A. Cipriani
Administrative Judge

NAC/dig

cc: Honorable John F. White, Jr.,
Secretary of the Pennsylvania Department of
Public Welfare

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

Honorable Nicholas A. Cipriani
Administrative Judge
Court of Common Pleas
517 City Hall
Philadelphia, Pennsylvania 19107

SEP 18 1987

Dear Judge Nicholas:

In reply to your letter of July 30, regarding changes to the OCSE audit procedures, I am not in agreement with your overall position that the new requirements are not possible or practical for the Philadelphia Family Court. The procedural changes outlined in my May 29 letter and detailed in OCSE Action Transmittal 87-7, a copy of which is enclosed, will enhance the States' efforts to improve their control, tracking and management of cases. We have found that those States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness. Therefore, these procedural changes will be advantageous to both the Federal OCSE and States in our goals of: providing better child support services; expediting the audit and penalty process; establishing better case management and control; and enhancing State IV-D agency responsibility.

To me, it is inconceivable that any modern, automated case management system would neither maintain an audit trail of activities on specific cases nor provide the status of both active and inactive cases at a given point in time. The reasons which you mention for not including cases in the system are overshadowed by the need to amend case records to reflect events which change the status of the case and which require possible case action.

With regard to your remarks concerning thousands of documents being duplicated, I would like to point out that only those cases actually selected from the case listings will need to be duplicated and forwarded for audit. In addition, case files/records can be sent to more than one location, when mutually agreed upon by the OCSE Audit Division and State officials prior to the initiation of audit fieldwork. I am sure that you are aware that a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews. And the cost involved in accumulating, duplicating and furnishing the data for audit purposes is fully reimbursable at the regular rate of OCSE's Federal financial participation (FFP).

With regard to your final concern, the potential reduced effectiveness of the audit, opportunities for the exchange of information between auditor and auditee such as the entrance and exit conferences will continue to be available. While it is true that the auditors' judgments and conclusions will be focused on the contents of case records, you must understand that it is the IV-D agency's responsibility to ensure that each case file contains the data and documentation for the auditors to determine whether a case action was required and taken. The new procedures which we prescribed are the only economical ones possible. We simply cannot afford to have our auditors traveling all over the State looking into file drawers and talking with hundreds of individuals to see if the Federal laws are being followed.

Should you wish to offer any further comment on this matter, please direct them to me ~~or Robert C. Harris, Associate Deputy Director, OCSE~~.

— Sincerely,

Wayne

Wayne A. Stanton
Director

Enclosure

cc: Mr. John F. White, Jr.
Secretary, Pennsylvania Department of Public Welfare

Mr. Alex Porter
OCSE Regional Representative, Region III

State of Louisiana
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF FAMILY SECURITY
SUPPORT ENFORCEMENT SERVICES
P. O. BOX 94065 - PHONE - 504/342-4780
BATON ROUGE, LOUISIANA 70804-4065

EDWIN W. EDWARDS
GOVERNOR

SANDRA L. ROBINSON M.D.
SECRETARY
STATE HEALTH OFFICER
504/342-6711

August 4, 1987

Mr. Wayne A. Stanton, Director
Office of Child Support Enforcement
330 C Street Southwest
Washington, D. C. 20201

Dear Mr. Stanton:

The Louisiana Child Support Enforcement Program has reviewed your May 29, 1987 letter on compliance audits and changes in procedural requirements. I must advise you that it will be impossible for Louisiana to meet all of the requirements outlined in your letter. The letter addressed three major areas, and I would like to respond to each one separately.

Requirement: For Federal fiscal year 1987, each state must provide a complete and accurate listing of its entire IV-D caseload as of January 1, 1987. The listing must account for all the active, inactive and closed cases, broken down by AFDC, non-AFDC and Foster Care.

Response: Louisiana does not have an automated system for intake cases, and, therefore, does not have a list of all intake cases. As you know, mechanization of intake was the next step in our clearinghouse project before OCSE terminated the project because of a schedule slippage. Without the cases being mechanized, we are unable to provide a list of all of our intake cases. Even if we are able to put our intake cases on the computer in the future, we will only be able to list the active cases. We do not have the manpower or the computer space to put closed or inactive cases on the computer.

Requirement: For Federal fiscal year 1988, the State must indicate, for each case, the appropriate services provided; i.e., locate, paternity establishment, enforcement, etc.

Response: Although our collection cases are mechanized, we do not classify them as to the type of action needed. Even intake cases would not be classified in this manner. Additionally, many cases require more than one type of service. One case may require paternity establishment, location action and enforcement action.

I doubt that many states are able to fulfill this requirement, and requiring them to do so will place a hardship on them and will take valuable time away from our main job of collecting child support.

Recd
AUG 17 1987

Requirement: All cases selected for audit must be sent to one location for the audit.

Response: This requirement will present a very real hardship to our Regional Offices and Contract District Attorney's. Sending the cases to the auditors will mean that the Regional Offices will be without the cases for three to four weeks. During this time, no action can be taken to enforce the order.

Additionally, we have found that many questions can be clarified by having the auditors speak to the caseworker when an issue comes up. If the auditor is unable to speak face-to-face with the worker, the auditor will be forced to count the case as an error. This appears to me to be very unfair to the states.

Louisiana has always cooperated fully with all federal auditors, and our relationship with the auditors has been very good. These changes will certainly make it more difficult for Louisiana, and other states, to maintain this relationship. I feel that the changes are unfair and put an undue hardship on the states. I respectfully request that the changes be rescinded.

Sincerely,

Marjorie T. Stewart

Marjorie T. Stewart
Assistant Secretary

MTS/GH/jh

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

SEP - 9 1987

Ms. Marjorie T. Stewart
Assistant Secretary
Louisiana Department of Health
and Human Resources
Office of Family Security
Support Enforcement Services
P.O. Box 94065
Baton Rouge, Louisiana 70804-4065

Dear Ms. Stewart:

This correspondence is in reply to your letter of August 4, in which you cited several objections as to why Louisiana will find it impossible to meet all of the recently announced changes to the OCSE audit procedures. I am not in agreement with your overall position. The procedural changes outlined in my May 29 letter and detailed in OCSE Action Transmittal 87-7, a copy of which is enclosed, will enhance the States' efforts to improve their control, tracking and management of cases. We have found that those States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness. Therefore, these procedural changes will be advantageous to both the Federal OCSE and States in our goals of: providing better child support services; expediting the audit and penalty process; establishing better case management and control; and enhancing State IV-D agency responsibility.

As to your objection concerning the State's inability to prepare a list of all intake cases since Louisiana does not have an automated system for intake cases, I can only point to our past efforts to encourage states to automate by providing 90% Federal matching funds and put their data on systems to control same. However, for those states who have chosen not to automate, I see no alternative but to gather this information manually.

With regard to your objections to loading closed or inactive cases on the computer or your inability to classify cases automatically, I can offer no exemption or alternative -- short of installing a Federally funded automated system, which when operational, should enable you to comply more readily with this requirement.

Regarding the submission of case files and records to one location for audit purposes, we are permitting case files/records to be sent to more than one location, when mutually agreed upon by the OCSE Audit Division and State officials prior to the initiation of audit fieldwork. You should also note that only duplicate copies of the case files and related records will be required and accepted for audit analyses. Retention of original case records at the local IV-D unit will permit the ongoing provision of child support enforcement services. In addition, the designated single and separate State IV-D agency will be held responsible for obtaining case documentation from all units involved in providing child support services throughout the state. I am sure that you are aware a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews.

In your final paragraphs, you express concerns that if the auditors are unable to speak face-to-face with the caseworkers, auditors will be forced to unfairly count cases as being in error. I appreciate your remarks regarding the excellent relationship which you have had with the OCSE auditors; I am confident that you will be of the same opinion upon completion of audits conducted under the new procedures. However, you must recognize that the audit requirements were significantly increased as a result of the Child Support Enforcement Amendments of 1984 and it has become imperative that the audits be expedited in every way possible so that the reports and the subsequent penalty evaluations might be accomplished in a more timely manner. It is the IV-D agency's responsibility to ensure that each case file contains the data and documentation for the auditor to determine whether a case action was required and taken. My decisions to focus on a review of case files/records and to generally limit the auditors visiting local IV-D units, were necessary in order to achieve my primary goal of accelerating the entire audit and penalty process.

We look forward to your cooperation and the cooperation of your staff in complying with the new audit procedures and I invite you to contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE, if you have any further comments or questions on this matter.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

Enclosure

cc: Ms. Norma Goldberg
OCSE Regional Representative, Region VI

JOHN WAIHEE
GOVERNOR

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
HONOLULU, HAWAII 96813
(808) 548-4740

WARREN PRICE, III
ATTORNEY GENERAL

CORINNE K. A. WATANABE
FIRST DEPUTY ATTORNEY GENERAL

August 10, 1987

Mr. Wayne A. Stanton, Director
Department of Health and Human Services
Office of Child Support Enforcement
330 C Street, S.W.
Washington, D.C. 20201

Dear Mr. Stanton:

Re: Your 29 May 1987 letter concerning new audit requirements

The State of Hawaii will continue to do its best to provide all documentation required to assist the Office of Child Support Enforcement's auditors in conducting Program Results audits to ensure program effectiveness and compliance with Federal requirements. However, due to two interagency transfers of Child Support program in Hawaii within the last two years and at the same time, attempting to accomplish and implement other program requirements with a relatively inexperienced staff, we feel that the new procedural requirements for FFY 1988 will in all probability, be extremely difficult to accomplish at this time. The time involved in meeting these new requirements will have a negative affect on our production and will result in a decrease in collections. In this regard, we respectfully request that the new requirements for FFY 1988 not be implemented at this time.

In view of our current problems, we also would like to express our concern as to whether other states can comply with the new procedures based largely on the number of counties served. The cost for duplicating all related records and providing a listing detailing each service required will have a negative effect on our administrative cost ratio and will probably reduce our incentive payments. We believe that this will be true for all states and it may be in the best interest of the child support programs nationally to reconsider implementing the new auditing requirements at this time.

Mr. Wayne A. Stanton, Director
August 10, 1987
Page 2

Your consideration regarding this requirement would be most helpful to us and all child support enforcement programs.

Sincerely,

Corinne KA Watanabe

for Warren Price, III
Attorney General

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

Mr. Warren Price III
Attorney General
Department of the Attorney General
Honolulu, Hawaii 96813

SEP 18 1987

Dear Mr. Price:

This correspondence is in reply to your August 10 letter in which you cited several examples of the extreme difficulties your office will have in complying with my recently announced changes to the OCSE audit procedures. I am not in agreement with your overall position that the "new requirements will have a negative affect on our production and will result in a decrease in collections" for the State of Hawaii, or for that matter in any other State. A major objective of the Federal OCSE is to promote State stewardship and accountability for Child Support program management and effective case management systems. Although I understand the complexities the State IV-D agency will encounter in fulfilling their responsibilities in developing the IV-D case listings and designating the child support services(s) without a fully automated case management system, I cannot postpone the implementation of these procedures any further.

In an effort to minimize the impact of the requirement to submit case files and records for review, you should note that only duplicate copies of the case files and related records will be required and accepted for audit analysis. Retention of original case records at the local IV-D unit will permit the ongoing provisions of child support services. In addition, the designated single and separate State IV-D agency will be held responsible for obtaining case documentation from all units involved in providing child support services throughout the State. I am sure that you are aware a similar system has been successfully utilized for many years in the conduct of AFDC Quality Control (QC) reviews. With regard to your remarks concerning the cost for duplication of case files and records and the potential negative effect that this will have on Hawaii's administrative cost ratio, thus reducing your incentive payments, I am sure that you are aware that all of the costs involved in preparing and furnishing these records for audit purposes are fully reimbursable at the regular rate of OCSE's Federal financial participation. This reimbursement will certainly minimize any negative effect which may arise from this procedure.

The procedural changes outlined in my May 29 letter have been explained in greater detail in OCSE Action Transmittal 87-7. I believe that a further examination of this Action Transmittal, a copy of which is enclosed, will alleviate your concerns. However, if you wish to offer any further comment on this matter, I invite you to contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

Enclosure

cc: Ms. Sharon Fujii
OCSE Regional Representative, Region IX

North Carolina Department of Human Resources
325 North Salisbury Street • Raleigh, North Carolina 27611
James G. Martin, Governor
David T. Flaherty, Secretary

August 11, 1987

Mr. Wayne A. Stanton
Administrator
Family Support Administration
Department of Health & Human Services
330 Independence Avenue, S.W.
Room 5600
Washington, D.C. 20201

Re: Change in Child Support
Enforcement (IV-D) Audit
Procedures

Dear Mr. Stanton:

I have received your letter of July 24, 1987 in reply to concerns raised by this Department concerning proposed changes in Child Support Enforcement Audit procedures. Our concern is based on the fact that there will obviously be no diminution of penalty assessment, but the comprehensiveness of the audit upon which the penalty is based will be reduced significantly.

I again request that you re-evaluate efforts to confine the audit analyses to a review of case records at one location. While I understand and support the need to expedite completion of audits, I am concerned that audits provide a fair basis for possible penalty assessment. Curtailing the comprehensive audit of case handling as contemplated by 45 CFR 305.10 will jeopardize an accurate evaluation of the IV-D program results. As before, we are willing to assist in anyway you deem appropriate to assure that the IV-D audit continues to be the reasonable and valuable tool it now is .

Sincerely,

Dave

David T. Flaherty

DTF/BMC:lp

cc: Suanne Brooks

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

SEP - 9 1987

Mr. David A. Flaherty
Secretary
North Carolina Department
 of Human Resources
325 North Salisbury Street
Raleigh, North Carolina 27611

Dear Mr. Flaherty:

This correspondence is in reply to your recent letter of August 11, in which you repeated an earlier request that I reevaluate the newly proposed changes to the audit procedures, specifically the procedure which confines the audit analysis to a review of case records at one location.

The procedural changes, outlined in my original letter of May 29, and expressed in much greater detail in OCSE Action Transmittal 87-7, a copy of which is attached, will enhance the States' efforts to improve their control, tracking and management of cases. We believe that these procedural changes will be advantageous to both the Federal OCSE and States in our shared goals of: providing better child support services; expediting the audit and penalty process; establishing better case management and control; and enhancing State IV-D agency responsibility.

I believe that this Action Transmittal will provide the detailed information necessary to answer most of your concerns. For example, case files/records can be sent to more than one location when mutually agreed upon by the OCSE Audit Division and State officials prior to the initiation of audit fieldwork.

I invite you to review this document and contact me or Mr. Robert C. Harris, Associate Deputy Director, OCSE, should you wish to offer any further comment on this matter.

Sincerely,

Wayne Stanton

Wayne A. Stanton
Director

Enclosure

cc: Ms. Suanne Brooks
 OCSE Regional Representative, Region IV

P.S. thanks for your letter. Hope everything is going OK.
Wayne

JAMES L. SOLOMON, JR.
COMMISSIONER

**South Carolina**
**Department of Social Services**
OFFICE OF CHILD SUPPORT ENFORCEMENT
POST OFFICE BOX 1469
COLUMBIA, SOUTH CAROLINA 29202 1469

Legal (803) 737-9902 Program (803) 737-9938

October 5, 1987

Mr. Wayne Stanton, Director
US Department of Health & Human Services
Family Support Administration
Office of Child Support Enforcement
330 C Street SW, Room 2086
Washington, DC 20201

Dear Mr. Stanton:

I am in receipt of Mr. Robert C. Harris' letter of September 9, 1987, concerning selection of South Carolina for a Program Results Audit for the Federal Fiscal Year of October 1, 1986 through September 30, 1987. I would like to take this opportunity to outline several difficulties which the timing of this audit presents for our state.

Although South Carolina was audited for Federal Fiscal Year 1984, we did not receive the results of this review until June 1986. Since that time, our state has been implementing a Corrective Action Plan to address the areas of noncompliance cited in the above mentioned report. This Corrective Action Plan, which was submitted to and approved by the Federal OCSE, will be completed on September 24, 1987. A Follow Up review on these issues will be conducted during the January 1988 quarter.

Availability of the caseload listing is also a concern of our agency. We will be unable to comply with this request by October 1, 1987. The generation of such a list will not be possible until after our Child Support Enforcement Automated System is operational. As you are well aware, our State is in the third year of a three-year development phase for an automated system. This three year phase was approved by the Federal Office and at its conclusion, in late Spring 1988, the program will have the ability to generate a list of its entire caseload.

South Carolina Board of Social Services

[illegible]
CHAIRMAN
AT LARGE

DOLORES S. GREENE
MEMBER
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CHARLESTON

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MEMBER
SECOND DISTRICT
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MEMBER
FIFTH DISTRICT
SUMTER

MELVIN B. NICKLES JR. M.D.
MEMBER
SIXTH DISTRICT
HARTSVILLE

Based upon these problems, we are requesting that the Federal Office postpone the Program Results Audit for FFY 87 until conversion to the new system is completed. The caseload listing will be available to the Federal Office. Our program is also requesting that the listing requirement be waived for the Follow Up Review, in light of our scheduled conversion to the Automated System.

This request to postpone the Program Results Audit and our hesitancy in providing your auditors with such a list is not based on the premise of not wanting to be held accountable for our actions. On the contrary, we are a responsible agency and will continue to be. Our hesitancy is based on trying to make the best use of extremely limited funds and the desire to provide a cost efficient and effective program to the citizens of South Carolina.

We appreciate your serious consideration of this request.

Sincerely,

James L. Solomon, Jr

James L. Solomon, Jr.
Commissioner

JLSjr:mmf

cc: Ms. Suanne Brooks

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington DC 20201

November 4, 1987

Mr. James L. Solomon, Jr.
Commissioner
Department of Social Services
Office of Child Support Enforcement
Post Office Box 1469
Columbia, South Carolina 29202-1469

Dear Mr. Solomon:

This is in response to your letter of October 5, requesting that the Federal Fiscal Year (FFY) 1987 Program Results/Performance Measurement audit scheduled for South Carolina be delayed.

Federal law and regulations at 45 CFR 305.10 require OCSE to conduct an audit of each State, at least once every three years, to evaluate the effectiveness of each State's Child Support Enforcement program and to determine whether the program meets statutory requirements. The latest Program Results audit of South Carolina was conducted for the FFY 1984. Therefore, to maintain the audit cycle and comply with Federal requirements, an audit must be conducted in South Carolina for the FFY 1987. In addition, as you mentioned in your letter, a Follow-up Review must, according to law and regulations, also be conducted during the second quarter of FFY 1988.

We cannot waive the requirement for caseload data as you requested. Hopefully, however, we can arrive at an agreement that will enable prompt initiation of the FFY 1987 audit, while at the same time accommodating to the maximum extent possible South Carolina's problem of providing the required case data. Please have the appropriate person in your Department contact Mr. George Pittsley, Supervisor, Atlanta Area Audit Office at (404) 881-7764 toward that end.

Be assured that we will make every effort to conduct and complete this audit expeditiously and in a manner that is least disruptive to your program operations.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

cc: Deputy Director, OCSE
Associate Deputy Director, OCSE
Regional Representative, OCSE Region IV
Director, Audit Division, OCSE

HAROLD FORD, TENNESSEE, CHAIRMAN
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WASHINGTON, DC 20515

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
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RONALD T. HASKINS, SUBCOMMITTEE MINORITY

March 16, 1988

Mr. Richard P. Kusserow
Inspector General
U.S. Department of Health
and Human Services
Room 5250, North Building
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Kusserow:

The Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means recently held hearings on the Child Support Enforcement (CSE) program. During these hearings, several witnesses, including Mr. Wayne Stanton, Director of the Department of Health and Human Services Office of Child Support Enforcement (OCSE), testified about recent changes in the CSE audit policy.

We are writing to solicit your comments on the reorganization that has taken place within OCSE and, more specifically, your views on the changes that have been made in the CSE audit procedures. In addition to these comments, we ask that you answer the following questions:

- Have you prepared any written analyses of the OCSE reorganization plan? If so, please supply any memoranda or other written materials you have prepared on the OCSE reorganization together with any replies you have received from OCSE.

- When you review an internal DHHS reorganization plan, on what basis do you make the review? Is it necessary to conduct an audit to determine the potential impact of a reorganization plan?

- Has your office conducted any audits of the Federal Office of Child Support Enforcement? If so, what criteria have you used to judge performance and what has been the result of these reviews?

The hearings also raised questions about whether the new OCSE audit regulations comply fully with General Accounting Office (GAO) auditing standards. We have asked GAO to comment on this and expect that they will solicit your views on their findings.

Since this letter, and your response to our request, will be printed in the record of the hearing, we ask that you respond within 45 days. If you should have any questions or need additional information, please contact the Subcommittee staff at 225-1025.

Sincerely yours,

Tom Downey
Thomas J. Downey
Acting Chairman

Hank Brown
Hank Brown
Ranking Minority Member

**DEPARTMENT OF HEALTH & HUMAN SERVICES** Office of Inspector General

Washington, D.C. 20201

MAY 9 1988

The Honorable Thomas J. Downey
Acting Chairman
Subcommittee on Public Assistance and
  Unemployment Compensation
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

RECEIVED

Dear Mr. Downey:

Thank you for your letter of March 16, 1988 soliciting our comments on the reorganization that has taken place within the Office of Child Support Enforcement (OCSE). Our answers to your specific questions follow; however, we would like to underscore the sensitive nature of your request and the information we are enclosing.

- Have you prepared any written analyses of the OCSE reorganization plan? If so, please supply any memoranda or other written materials you have prepared on the OCSE reorganization together with any replies you have received from OCSE.

Yes, we have. In response to a request from the Department's Assistant Secretary for Management and Budget for comments on the Family Support Administration's (FSA) proposed functional statement, we advised in a memorandum dated July 8, 1987, (Tab A) that, overall, the functional statement was a positive effort by FSA to streamline program management. However, we found material weaknesses in the organizational structure of the OCSE audit function and, accordingly, did not concur with the proposed organization.

As part of the proposed reorganization of FSA headquarters program offices, FSA would be placing the twelve OCSE area audit offices under the administrative and/or operational control of the ten FSA regional administrators (see Tab B). In our opinion, this placement would constitute a direct violation of generally accepted government auditing standards as stated in the Comptroller General's publication, Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, 1981 Revision ("yellow book"), Chapter II, Section A., Part 2.

> "Independence: In all matters relating to the audit work, the audit organization and the individual auditors, whether government or public, must be free from personal or external impairments to independence, must be organizationally independent, and shall maintain an independent attitude and appearance."

Auditors' independence can be affected by their place within the structure of the government entity to which they are assigned. To help achieve maximum independence, the audit function or organization should report the results of their audits and be accountable to the head or deputy head of the government entity and should be organizationally located outside the staff or line management function of that government entity. The Inspector General concept was developed around these same principles.

We also expressed major concern over a letter of May 29, 1987 (Tab C) issued to all the States by the Director, OCSE, announcing changes to the OCSE audit procedures. In our opinion, as contained in the previously mentioned memorandum of July 8, 1987, the audit changes would severely impair the gathering of evidential matter by OCSE auditors in fulfilling their legislative responsibilities. Specifically, the letter required States to copy child support files and send them to one central location for review. In addition, conclusions and judgments of the auditors were to be "...based entirely on the case file and related records/documents furnished by the State Agency at the time of the audit..."

Generally accepted government auditing standards, specifically Chapter II, Section D, Part 6 of the "yellow book," require:

> "Sufficient, competent, and relevant evidence is to be obtained to afford a reasonable basis for the auditors' judgments and conclusions regarding the organization, program, activity, or function under audit...."

Chapter II, Section B, Part 4 of the "yellow book," requires:

> "...When factors external to the audit organization and the auditor restrict the audit or interfere with the auditor's ability to form objective opinions and conclusions, the auditor should attempt to remove the limitation or failing that, report the limitation."

As a result of our comments, OCSE Action Transmittal 87-7 dated August 31, 1987 (Tab D) somewhat modified the audit changes announced in the OCSE Director's May 29, 1987 letter. However, we remain of the opinion that the changes constitute a major impairment on the scope of audit and gathering of evidence since the changes restrict the OCSE auditors from visiting local child support units for purposes of obtaining additional case-related information or interviewing Title IV-D staff to elicit explanations which may supplement case documentation. Such impairments, in our opinion, would restrict the auditor's ability to render objective opinions and conclusions, and impede their ability to do their work and report their findings impartially. The organizational placement and restrictions imposed on the OCSE audit staff by management, in our opinion, directly violated generally accepted government auditing standards as promulgated in the "yellow book," particularly the standards on independence and evidence.

- When you review an internal DHHS organization plan, on what basis do you make the review? Is it necessary to conduct an audit to determine the potential impact of a reorganization plan?

When we are requested to comment on an internal DHHS organization plan, as we were with respect to the proposed FSA reorganization, we review the proposed organizational plan, implementing instructions and other documentation. The objective of our review is to determine that any proposed reorganization does not adversely affect efforts to curb fraud, waste and abuse and improves management economy and efficiency. We do not conduct an audit as part of our review because the plan is not yet in effect. However, we do analyze a proposed reorganization to insure against vulnerabilities to fraud, waste and abuse as set forth in the statute establishing the Office of Inspector General (OIG).

In those cases where a proposed reorganization includes a change in audit activities, we assure that these plans are measured against criteria contained in the "yellow book" or audit policies established by the OIG to assure adherence to the "yellow book." We are particularly concerned with organizational placement and any restrictions imposed on audit staff that directly violate generally accepted government auditing standards. This is because the Inspector General is responsible for establishing audit policy for the Department.

- o Has your office conducted any audits of the Federal Office of Child Support Enforcement? If so, what criteria have you used to judge performance and what has been the result of these reviews?

No, we have not. As stipulated in FSA's functional statement, the OCSE Audit Division:

> "...conducts audits or program results pursuant to the penalty provision of section 403(h) of the Act, to determine whether the actual operation of CSE programs in each state conforms to federal requirements; develops and conducts full-scope administrative cost audits of the Child Support Enforcement program to assess adequacy of financial operations and compliance with applicable laws and regulations; performs other audits and examinations of program operations as may be necessary or requested by program officials for the purpose of improving the efficiency, effectiveness and economy of state and local child support activities; develops consolidated reports for the Director and Deputy Director, OCSE, based on findings; provides specifications for the development of audit regulations and requirements for audits of state OCSE programs; and coordinates and maintains effective liaison with the HHS Inspector General's Office and with the General Accounting Office..."

We believe that this functional statement has further confused the issue of responsibility for the Office of Child Support Enforcement audit function. Specifically, the functional statement broadens OCSE's audit authority to include not only the statutorily mandated penalty audits, but "full-scope" of the OCSE program. We believe that this coverage duplicates the audit responsibility provided in Public Law 94-505 creating the Office of Inspector General. Section 203 of the Inspector General Act, assigned to the Inspector General the responsibility "to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of the Department." It also appears that a separate audit function in OCSE conflicts with the provisions of OMB Circular A-73 which state in Section 8, part a. that "...the operation or policy control of all audit activities in a department or agency should be under the direction of one individual..."

However, to minimize inefficient practices and make maximum use of scarce resources, the OIG makes every effort not to duplicate overlapping audit responsibilities. This has been our policy with regard to the OCSE Audit Division for a number of years. Moreover, in response to a GAO report entitled Child Support: Need to Improve Efforts to Identify Fathers and Obtain Support Orders, HRD-87-37 dated April 1987, the Department stated (see Tab E) that although the OIG is not specifically precluded from reviewing OCSE operations, it refrains from doing so because the statutory division of audit responsibility between OIG and OCSE is not clear. Department efforts to remedy this situation through legislative amendment have been unsuccessful. Until congressional action is taken to clarify conflicting legislation, confusion surrounding overlapping audit responsibilities and duplication of effort will remain unresolved.

We trust we have satisfactorily responded to your letter. Please call Stephen Davis at 472-5270 if you need further information.

Sincerely yours,

Richard P. Kusserow
Inspector General

Enclosures

TAB A

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

**Memorandum**

Date JUL 8 1987

From Richard P. Kusserow
Inspector General

Subject Proposed Reorganization of FSA Functional Statement

To S. Anthony McCann
Assistant Secretary for Management and Budget

Thank you for the opportunity to comment on the Family Support Administration's (FSA) proposed functional statement. We are sorry for the delay in responding. However, the additional time was needed to evaluate the impact of the proposed changes on the Office of Child Support Enforcement (OCSE) audit function, and to assure compliance with audit policy we are statutorily obligated to set for the Department.

Although the functional statement, overall, is a positive effort by FSA to streamline program management, we found material weaknesses in the organizational structure of the OCSE audit function and, accordingly, cannot concur with the proposed reorganization.

Based on our review, the organizational placement and restrictions imposed on OCSE audit staff directly violate the Comptroller General's Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (government auditing standards), including independence and evidence. These violations are so egregious that, in our opinion, they constitute a material internal control weakness. Accordingly, we will be obligated to advise the Secretary to report this matter in the Department's annual report to the President and to the Congress under the Federal Managers' Financial Integrity Act. It will further necessitate our reporting of the violations of government auditing standards to the Comptroller General.

VIOLATIONS OF AUDITORS' INDEPENDENCE

FSA's proposed functional statement for the OCSE audit function states that "...the Audit Division develops, plans, schedules and conducts periodic audits of state CSE programs in accordance with audit standards promulgated by the Comptroller General of the United States." However, it is our understanding that as part of the proposed reorganization of FSA headquarters programs offices, FSA is considering placing the twelve OCSE Area Audit Offices under the administrative and/or operational control of the ten FSA regional administrators. In our opinion, this placement constitutes a direct violation of government auditing standards, which state that:

TAB A

> In all matters relating to the audit work, the audit organization and the individual auditors, whether government or public, must be free from personal or external impairments to independence, must be organizationally independent, and shall maintain an independent attitude and appearance.

This standard places upon auditors and audit organizations the responsibility for maintaining independence so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. It is essential not only that auditors be, in fact, independent and impartial but also that knowledgeable third parties consider them so.

Auditor's independence can be affected by their place within the structure of the government entity to which they are assigned. To help achieve maximum independence, the audit function or organization should report the results of their audits and be accountable to the head or deputy head of the government entity and should be organizationally located outside the staff or line management function of that government entity.

In our opinion, to place the twelve Area Audit Offices under the administrative and/or operational control of the ten FSA regional administrators will not ensure objective reporting to top management.

VIOLATIONS FOR OBTAINING EVIDENTIAL MATTER

Government auditing standards also require that:

> Sufficient, competent, and relevant evidence is to be obtained to afford a reasonable basis for the auditors' judgments and conclusions regarding the organization, program, activity, or function under audit. A written record of the auditors' work shall be retained in the form of working papers.

Recently issued instructions by the Director, OCSE, will severely impair the gathering of evidential matter by OCSE auditors in fulfilling their legislative responsibilities. Under those instructions, auditors' judgments and conclusions as to whether an action was taken to provide required child support enforcement must be "...based entirely on the case file and related records/documents furnished by the State Agency at the time of the audit."

We have serious concerns whether such auditor judgments and conclusions can be effectively made in view of the severe impairments on auditing procedures mandated by the Director's instructions. A summary of those impairments follows.

> All child support cases selected for review and related records from entities which provide child support services must now be sent to one location for Statewide audit evaluation and analysis.
>
> Auditors' judgments and conclusions as to whether an action was taken to provide required child support enforcement service(s) will be based entirely on the case file and related records/documentation furnished by the State agency at the time of the audit.
>
> Auditors will no longer be permitted to obtain additional case-related information or interview IV-D staff to elicit explanations which may supplement case documentation.
>
> Auditors may only perform tests and checks of data provided by States, including the listing(s) of cases, to verify that they are reliable and complete.

In our opinion, the directive summarized above constitutes a major impairment on the scope of audit and gathering of evidence. These impairments restrict the auditor's ability to render objective opinions and conclusions, and impede auditors' ability to do their work and report their findings impartially.

Under government auditing standards, if the auditors' ability in these areas is adversely affected, they should decline to perform the audit. In view of the impairments now placed on OCSE auditors, we believe their severely limited audits will have questionable value.

* * * * * * * *

To summarize: the Office of Inspector General concludes that the proposed reorganization of the OCSE audit function is in direct violation of government auditing standards. This violation is so egregious that we will be compelled to advise the Secretary that this matter is a material internal control weakness that must be reported to the President and to the Congress under the A-123 process. A further obligation has already been created to report auditing standards violations to the Comptroller General. Accordingly, the OIG does not concur with the proposed reorganization of the OCSE audit function and must register our firm opposition to such an action.

cc:
Wayne A. Stanton

**DEPARTMENT OF HEALTH & HUMAN SERVICES** Office of Inspector General

## Memorandum

Date MAY 12 1988

From Director, Audit Management

Subject Vacancy Announcements

To Regional Inspectors General
for Audit, Deputy Assistant Inspectors
General for Audit and Division Directors

Attached for information and distribution to your staff are vacancy announcements for a GM-334-14 Supervisory Computer Systems Analyst and a GM-511-14 Supervisory Auditor in the Health Care Financing Audits Division in Woodlawn, Md.

Dick Mangione
Dick Mangione

Attachment

Addressees:
Regional Inspectors General
for Audit:
BOSTON
NEW YORK
PHILADELPHIA
ATLANTA
CHICAGO
DALLAS
KANSAS CITY
SAN FRANCISCO

Deputy AIGAs and
Division Directors:
Jack Ferris, GIS
Ray Lazorchak, GIS
Larry Simmons, HCFA
George Reeb, HCFA
Vince Mazzuca, HCFA
Tim Trockenbrot, SSA
Andrea Walker, AO
Joe Green, SSA

TAB B

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director, Audit Division
Washington, D.C. 20201

APR 17 1987

MEMORANDUM

FROM: David A. Dimler
Director, OCSE Audit Division

SUBJECT: OCSE Audit Division Organization and Control

TO: Wayne A. Stanton
Administrator, FSA/Director, OCSE

Recently, I became aware that the FSA Regional Administrators will be meeting on April 23 and 24 to discuss, among other items, the "housing and supervision of the OCSE auditors" which will certainly include discussion of the merger of the Area Audit Offices with the FSA Regional Offices.

The purpose of this correspondence is to emphasize the critical importance of this issue to the OCSE auditors in terms of the Division's continued existence as an independent unit and its ability to perform objective, impartial reviews of State child support programs. Although a decision on this matter may not be made during the meeting, I hope that I will be afforded the opportunity to attend discussion of this topic, or be permitted at a later date, to present the views of the entire OCSE audit staff before a final decision is made.

In the event, however, that I will not attend the meeting, I'll take this opportunity to reiterate the Audit Division's position that there are at least four major reasons why the OCSE Audit function should not be placed under the administrative or operational control of the FSA Regional Administrators. Briefly, these reasons are:

1. The independence of the OCSE Audit function would be destroyed if the conduct of the audits and the information contained in the audit reports were in any way controlled or influenced by the FSA Regional Administrators who also have programmatic responsibility for providing technical assistance and guidance to States for the effective operation of their child support programs. As required by law and regulation, the audits must be conducted in accordance with the GAO Standards which necessitate that: (1) the Audit function report and be responsible to the highest authority in the Agency, i.e. the Administrator, FSA/Director, OCSE; and (2) the audits be conducted in an

TAB B

unbiased, impartial manner without the potential or actual "influence" of those having programmatic responsibility over the entity audited.

2. The Program Results and Performance Measurements (PR/PM) audits must be performed in a uniform and consistent manner in order to ensure that each State's program is analyzed under the same guidance and instruction. This is especially important where a State can be penalized for noncompliance because the penalty will not be sustained if a State can show that the audit scope and/or approach varied from that in another State. If the audits were conducted under the supervision and direction of ten Regional Offices rather than one central control, there would most surely be variations and deviations.

3. A merger of the Audit Offices within the FSA Regional structure would eliminate the flexibility currently employed by the Audit Division to temporarily assign staff to conduct or assist with audits outside their normal areas of audit cognizance. For example, staff of the Atlanta and Columbus Area Offices are currently being used to assist the Chicago Office in the audit of Wisconsin. Likewise, staff of the Sacramento Office were assigned to audit the State of Maryland and the District of Columbia on behalf of the Baltimore Office; and the Denver Office assisted the Columbus Office in the audit of Ohio. There are many other examples which can be cited, but the point to be made is that the flexibility to utilize staff throughout the Country has enabled the Division to accomplish audit work plan requirements and to compensate, in some degree, for the severe staff shortages which exist in most of the Area Offices. Placement of the audit staffs under the administrative and/or operational control of the FSA Regions would virtually preclude all flexibility for the allocation and reassignment of audit resources.

4. The audits and the audit reports indirectly reflect OCSE's effectiveness in assisting the States to improve program operations and correct program deficiencies. Consequently, the Administrator, FSA/Director, OCSE should use the audit information to assess OCSE performance and preserve an independent unit under his exclusive control to provide objective, impartial feedback on the adequacy and quality of OCSE guidance and advice to the States. An independent audit unit also allows the Administrator to direct that special reviews and evaluations be performed in any State and in any areas of his interest and selection.

BEST AVAILABLE COPY

Overall, the merger issue is extremely serious and of vital concern to all the auditors. Until and unless a decision is made to retain the Audit Division as an independent, centralized function and not include the Area Audit Offices under the administrative or operational control of the FSA Regional Administrators, I can assure you that experienced, dedicated audit personnel will continue to leave FSA/OCSE for other employment, thereby aggravating an already grave situation. Therefore, I urge that this issue be addressed and resolved as soon as possible.

Please let me know if you need any additional information or have any questions.

cc: Executive Assistant to the Administrator, FSA
Associate Deputy Director, OCSE

bcc: Attorney/Advisor, OGC
Deputy Director, Audit Division
Regional Audit Managers
Chief, OAS
Area Audit Office Supervisors

TAB C

ATTACHMENT 2

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington, D.C. 20201

MAY 29 1987

Mr. Andrew Hornsby
Commissioner
Alabama Department of
Human Resources
64 North Union Street
Montgomery, Alabama 36130

Dear Mr. Hornsby:

As you are aware, the Office of Child Support Enforcement (OCSE) conducts Program Results audits in each State, at least once every three years, to determine whether the State has an effective Child Support program which is in substantial compliance with Federal requirements. If a State is found not to be in substantial compliance, a monetary penalty of from one to five percent of the Federal payments made to the State under the Aid to Families with Dependent Children (AFDC) program may be imposed.

In order to conduct the audits and issue the audit reports in a more timely manner and in order to promote State stewardship and accountability for Child Support program management, the following procedural requirements will become effective for all States, as indicated.

Beginning with the audits conducted for the Federal fiscal year of October 1, 1986 through September 30, 1987 (FFY 1987), each State will be required to provide the cognizant OCSE Area Audit Office a complete and accurate listing or multiple listings of its entire IV-D caseload as of January 1, 1987. The listing(s) must account for all the active, inactive and closed cases, from each of the State's local child support units, i.e., counties, regions, districts or other sub-State entities, within the following categories: AFDC; Non-AFDC (applicants and former AFDC); Foster Care; and incoming interstate cases requesting service(s).

For audits conducted for the FFY 1988 (October 1, 1987 through September 30, 1988) and beyond, the State's listing(s) must indicate, for each case, the appropriate child support service(s) (function), i.e., "locate", "paternity establishment", "enforcement", etc., which was/were required to be provided on that case on October 1, 1987.

The listing(s) will be used by the auditors as a universe from which to select randomly sample case files, from throughout the State, for review in determining whether the State has met the substantial compliance requirement of taking action to provide the required service(s) in at least 75 percent of the cases reviewed.

TAB C

The second procedural change requires that all cases selected for review and all related records from entities which provide child support services or maintain child support information, i.e., District Attorneys, Clerks of Court, IV-A agencies, etc., must be sent to one location for statewide audit evaluation and analysis. The specific location, which could be the State Capital city or the site with the largest concentration of case records, will be mutually agreed upon by State officials and the OCSE auditors at the time of the Audit Entrance Conference. Further details on these new procedural requirements will be incorporated in an OCSE Action Transmittal to be issued in the near future.

The auditors' judgments and conclusions as to whether an action was taken to provide the required child support enforcement service(s) will, effective for audits commencing October 1, 1987, be based entirely on the case file and related records/documentation furnished by the State agency at the time of the audit. OCSE auditors will no longer attempt to obtain additional case-related information or interview IV-D staff to elicit explanations which may supplement case documentation. Providing the universe of cases for audit sample selection and furnishing case files and related records/documentation on cases selected for review are solely State IV-D agency responsibilities. However, the auditors will perform appropriate tests and checks of the data provided, including the listing(s) of cases, to verify that they are reliable and complete.

Under provisions of section 305.13 of the Audit Regulations entitled "State cooperation in annual audit," States are required to make available such records or other supporting documentation as the audit staff may request. A State's failure to provide the information and records requested may necessitate a finding that the State is not in substantial compliance with the audit criterion "Reports and maintenance of records" at section 305.35.

Your cooperation and the cooperation of your staff is appreciated in these efforts to modify the scope of the audits and expedite the audit process.

Sincerely,

Wayne A Stanton

Wayne A. Stanton
Director

cc: Alabama, IV-D Director
Ms. Suanne Brooks
OCSE Regional Representative, Region IV

TAB D

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforcement

Director
Washington D.C. 20201

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF CHILD SUPPORT ENFORCEMENT
WASHINGTON, D.C. 20201

PROGRAM INSTRUCTION

ACTION TRANSMITTAL
OCSE-AT-87-7
August 31, 1987

**TO:** STATE AGENCIES ADMINISTERING CHILD SUPPORT ENFORCEMENT PLANS APPROVED UNDER TITLE IV-D OF THE SOCIAL SECURITY ACT AND OTHER INTERESTED INDIVIDUALS

**SUBJECT:** PROCEDURAL CHANGES TO PROGRAM RESULTS AUDITS AND FOLLOW-UP REVIEWS

**ATTACHMENT:** Instruction on Procedural Changes to Program Results audits and Follow-up reviews. Instruction provides for submission of IV-D statistics, listings and sample cases to central location(s). These submissions will be used by the OCSE Audit Division for the Program Results audits and Follow-up reviews to determine whether the State has an effective Child Support program which is in substantial compliance with Federal requirements.

**BACKGROUND:** In order to expedite the Program Results audits and Follow-up reviews and to promote State stewardship and accountability for Child Support program management, certain procedural requirements are being implemented for all States. These procedures are being initiated in accordance with Section 452(a)(4) of the Social Security Act and the provisions of OCSE Audit Regulations at 45 CFR Part 305.13 and 305.35 and are effective on October 1, 1987 for all audits and Follow-up reviews conducted thereafter, as specified.

**REGULATION REFERENCE:** 45 CFR Parts 302.15, 303.2, 305.13, 305.20, 305.35 and 305.98

**RELATED REFERENCE:** Letter, dated May 29, 1987, Subject: Expediting the Audit Process

**INQUIRIES TO:** OCSE Audit Division

Wayne A Stanton

Wayne A. Stanton
Director

TAB D

## PROCEDURAL CHANGES TO PROGRAM RESULTS AUDITS

### PURPOSE

In an effort to promote State IV-D Agency stewardship and accountability over the child support program, OCSE has implemented new procedures for the conduct of the Program Results audits and Follow-up reviews relating to the review of case files to evaluate the provision of child support services. The procedural changes, described below, will enhance the States' efforts to improve their control, tracking and management of cases. We have found that those States which have taken the initiative to develop better case management and tracking processes have shown steady improvement in program effectiveness. Therefore, these procedural changes will be advantageous to both the Federal OCSE and States in our goals of: providing better child support services; expediting the audit and penalty process; establishing better case management and control; and enhancing State IV-D agency responsibility.

### BACKGROUND

The Child Support Enforcement provisions of the Social Security Act, as amended, required OCSE to revise the Audit Regulations contained in 45 CFR Part 305. The revised Regulations, require OCSE to conduct an audit of States' child support enforcement programs at least once every three years and to use a "substantial compliance" standard to determine whether States have an effective child support enforcement program. The State must substantially comply with both the State-plan related audit criteria specified in 45 CFR 305.20 and the performance indicators specified in 45 CFR 305.98.

The State plan-related audit criteria have been categorized as either relating to the administration of the State's child support enforcement program or to the actual provision of required child support enforcement case services. As to those audit criteria involving the provision of child support services, the State must utilize its procedures to provide services in at least 75 percent of the sample cases reviewed in order to be found in substantial compliance. Additionally, the State must meet specified time standards for the audit criterion "Expedited Processes".

The determination of substantial compliance comprises evaluations involving: (1) an examination of the State's administration of its child support enforcement program; (2) a review of sample cases to determine if the State is providing required child support services; and (3) application of the performance indicators specified in the regulations.

This Action Transmittal details the procedures to be followed, beginning with the audits commencing after October 1, 1987, for conducting that portion of the audit relating to the State's substantial compliance with the State plan-related audit criteria involving the provision of child support services. These procedures are also applicable to all Follow-up reviews conducted after October 1, 1987.

This Action Transmittal places all States on notice of the new procedural requirements so that, if necessary, the State can take steps to generate the data and take such other actions as may be required. OCSE will provide additional specific information to those States to be audited, in any given fiscal period, informing them as to where and when the statistical data, case listings and case documentation should be sent for audit review.

## IV-D CASELOAD LISTINGS FOR PROGRAM RESULTS AUDIT

For all Program Results audits initiated after October 1, 1987, each State to be audited is required to provide the cognizant OCSE Audit Division's Area Audit Office, by October 1, 1987, complete and accurate statistical data pertaining to its IV-D caseload, by local child support unit. The IV-D caseload statistics will be used to select local child support units for audit. The State must also submit a listing of its AFDC payment register as of January 1, 1987, or the earliest date available during Federal Fiscal Year (FFY) 1987, if a listing as of January 1 is not available. The State will be notified of the specific child support units to be audited. The State must submit, for these locations, a complete and accurate listing(s) of their IV-D caseloads.

The listing(s) of these cases must account for all active and inactive IV-D cases within the selected units. A separate listing of all cases which were closed from October 1, 1986 through June 30, 1987 must also be submitted. The listing(s) of IV-D cases must be by local child support units, e.g., counties, districts, etc., in which each case file is maintained and it must designate each case within one of the following classifications: AFDC; non-AFDC (applicants and former AFDC recipients continuing to receive IV-D services); Foster Care; AFDC and Foster Care "arrearage-only" cases ; and incoming interstate (including Uniform Reciprocal Enforcement of Support Act) which were processed through the IV-D program.

In addition, effective on October 1, 1987, each State is required to submit for each of the selected local units: (1) a listing of those individuals who had requested "Payment of support through the IV-D agency or other entity" during the fiscal year; (2) a listing of all requests from consumer reporting agencies regarding amounts of overdue support owed by absent parents; and (3) a listing of those cases requiring establishment or enforcement of a support obligation, which during the FFY being audited, had been filed or completed under "expedited processes" or the State's judicial system (if an exemption had been granted). For example, for States utilizing "expedited processes", this would include establishment and enforcement of support obligation cases for which the case was filed with the presiding officers during the FFY being audited, as well as cases in which the support order or enforcement order was officially established and/or recorded. For States in which an exemption was approved for expedited processes, the listing should include cases requiring establishment and enforcement of support which were filed in a judicial system during the FFY being audited, as well as cases in which a court order or enforcement order was officially established. If a State had a 1-year exemption approved during the FFY being audited, the State should send the detailed listing of cases used as documentation for the quarterly reports provided to OCSE to track compliance with the time standards.

The IV-D caseload listing(s) will be used by the OCSE Audit Division as a universe from which to randomly select case files for review in determining whether the State has met the substantial compliance requirement of taking action to provide the required service(s) in at least 75 percent of the sample cases reviewed.

## CASE FILES AND DOCUMENTATION FOR PROGRAM RESULTS AUDITS

Similar to the regulatory requirement for States to provide case documentation within a required time frame for the quality control reviews conducted by the Office of Family Assistance, effective for all Program Results audits beginning after October 1, 1987, States must provide duplicate copies of their complete case files, and related documentation, for all sample cases selected for review. These cases will be drawn only from those child support units selected for review. The complete case file, and all related records/documentation, in hard copy or electronic form, are to be submitted to the central location(s), and/or the Area Audit Office within thirty (30) days of request by the OCSE Audit Division. To ensure that the State maintains the original case files and related documentation and continues to provide child support services during the period the audit is conducted, only **duplicate copies of the files/records should be submitted**. This will also ensure that files/records are not lost or misplaced. The location(s) to which the case file and records are to be sent will be mutually agreed upon by the OCSE Audit Division and State officials prior to initiation of audit fieldwork.

For purposes of this Instruction, a complete case file is defined as documentation from all State and local units providing IV-D services whether or not the units are under cooperative agreement or receiving Federal funds. [redacted] commencing October 1, 1987, [redacted]. However, in accordance with 305.13(a), "Each State shall make available to the Office such records or other supporting documentation as the Office's audit staff may request. The State shall also make available personnel associated with the State's IV-D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit."

Data sources for case files and records may include: legal agencies (e.g., District Attorneys, State Prosecutors, Family Court); child support collection agencies (e.g., Clerks of Court); local child support enforcement units; State-level child support units (e.g., State Parent Locate); or any other entity providing IV-D services.

The designated single and separate State IV-D agency is responsible for obtaining required case files/and or records from any entity providing child support enforcement services, including entities providing such services under State statute in lieu of a cooperative agreement, even if the entity is not receiving Federal funds. Requirements as to (1) specific types and (2) format of documentation to be submitted to the central location(s) may vary from jurisdiction to jurisdiction. The OCSE Audit Division will determine, in conjunction with the State under audit, the types of data sources and the format in which documentation is to be submitted. For example, automated data processing tapes, computer printouts, and hard copies of case service documentation will generally be accepted as documentation to substantiate the provision of child support services. If computer terminals are available for the auditors to access the case information at a central location, this would be preferable. Detailed below are examples of information which may need to be submitted for review:

- all documentation supporting IV-D and non-IV-D case files and services provided, including: case logs; referral documents from IV-A, documents identifying case actions and records identifying court orders; and other related documentation detailed in 45 CFR 303.2. These regulations require the establishment of a case record which contains all information collected pertaining to the case.
- child support payment collection and distribution records;
- register of $50 disregard payments computed for AFDC recipients;
- lists of subpoenas served, clerks' of court docket books, or presiding officers' docket books for selection of cases for expedited processes cases;
- listing of cases certified for IRS tax refund intercept;
- County attorney files relating to legal services provided (e.g. enforcement proceedings);
- accounting records for non-AFDC collections;
- documents to show notice of collections of child support for AFDC recipients;
- lists matching absent parents who owe child support with persons receiving unemployment compensation;

- case listing for annual receipts for unemployment offset paid by absent parents;
- case listing for information regarding the recovery process for payments received directly by AFDC recipients;
- documents from automated billing system (e.g., identification of delinquencies, delinquency enforcement letters);
- listings informing the Medicaid Agency of medical information secured and/or when a new or modified court order or administrative order includes medical support; and
- cases certified for State income tax refund offset.

Additionally, States must submit copies of the following data for each local child support entity from which sample cases are drawn:

- Procedure Manuals;
- Organizational Chart;
- Cooperative Agreements; and
- Collection and Expenditure Reports

## IV-D CASELOAD LISTING BY SERVICE CATEGORIES FOR PROGRAM RESULTS AUDITS

For all Program Results audits commencing after October 1, 1988, each State must develop and maintain IV-D caseload information as to the service(s) required on each case as of the first day of the audit period, i.e., October 1. If the October 1st data is not available, the listing may be prepared as of a later date mutually agreed upon in advance of the specific request for the case listing(s), by the State and the OCSE Audit Division. The required date may not, however, be later than March 31. Each case is to be classified in one of the following three service categories: "Locate", "Establishment", or "Collection/Enforcement." These categories are defined below. The case listing(s) are to be submitted to the cognizant OCSE Area Audit Office within sixty (60) days of the date requested.

### Definitions of Service Categories

Effective October 1, 1988, the following definitions are established to categorize cases:

Locate - cases requiring the determination and/or verification of the current address, residence, and/or employment of the absent parent or putative father for the purpose of establishing or enforcing the child support obligations. In addition, this listing should include "locate-only" cases for which additional child support services are not requested.

Establishment - comprises two subcategories of cases which must be identified separately, as follows: (1) cases requiring the establishment of paternity and/or support obligation where the location of the putative father has been confirmed; and (2) cases requiring the establishment or modification of a support obligation where paternity is not an issue or has been established prior to the audit period and the location of the absent parent has been confirmed. Cases in this category will also be used to evaluate the criterion "Medical Support Enforcement."

Collection/enforcement - cases requiring that current child support payments be monitored in order to identify and enforce delinquent child support obligations. These cases must include all those requiring the following enforcement criteria: "Wage or income withholding"; "Expedited processes"; "Imposition of liens against real and personal property"; "Posting security; bond or guarantee to secure payment of overdue support"; "Federal Tax Refund Offset", "Collection of overdue support by State and income tax refund offset"; "Withholding of unemployment compensation"; and "Medical support". These cases should also include other enforcement techniques utilized by the State such as contempt proceedings, garnishment, creditors' claims in bankruptcy proceedings, etc. In addition, this category will include cases requiring the: receipt and distribution of child support collections; collection of spousal support; collection and accounting of fees; computation of the $50 disregard; making of required payments to the family; notification to IV-A of collections received; and notice of collection of assigned support.

## IV-D CASELOAD LISTING AND CASE FILE DOCUMENTATION FOR FOLLOW-UP REVIEWS

The procedures discussed for the Program Results audits will also apply to all Follow-up reviews. However, the Audit Division will notify the States in advance as to: (1) the period to be covered by the Follow-up review; (2) the specific date for the caseload statistics; (3) the specific locations to be reviewed; (4) the specific dates for the caseload listings; and (5) the due date for submission of the caseload statistics, caseload listings, and case files. Because the Follow-up reviews only address the unmet and marginally-met audit criteria cited in the "Notice of Substantial Noncompliance," the Audit Division will also inform the State regarding what specific case file documentation is needed to be submitted.

## FEDERAL REGULATIONS REQUIREMENTS/CERTIFICATION AND TESTING OF DATA

Providing the universe of cases for audit sample selection and furnishing case files and related records/documentation on cases selected for review are solely State IV-D agency responsibilities. Under provisions of section 45 CFR 305.13 of the OCSE Audit Regulations entitled "State cooperation in annual audit," States are required to make available such records or other supporting documentation as the audit staff may request. In addition, 45 CFR 305.35(a) requires that States maintain the records necessary for proper and efficient operation of the plan.

The single and separate State agency, or its designee, must certify that the duplicated case files and related records/documentation are complete and accurate. The OCSE Audit Division will perform appropriate tests and checks of the data provided, including the statistical data and listing(s) of cases, to verify that they are accurate, and complete and can be relied upon for audit purposes.

TAB E

United States General Accounting Office

GAO

Report to the Secretary of Health and Human Services

April 1987

# CHILD SUPPORT

## Need to Improve Efforts to Identify Fathers and Obtain Support Orders

TAB E

HAROLD FORD, TENNESSEE, CHAIRMAN
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION

THOMAS J. DOWNEY, NEW YORK
DON J. PEASE, OHIO
ROBERT T. MATSUI, CALIFORNIA
BARBARA B. KENNELLY, CONNECTICUT
BRIAN J. DONNELLY, MASSACHUSETTS
MICHAEL A. ANDREWS, TEXAS

HANK BROWN, COLORADO
BILL FRENZEL, MINNESOTA
BILL GRADISON, OHIO
ROD CHANDLER, WASHINGTON

Ex Officio:
DAN ROSTENKOWSKI, ILLINOIS
JOHN J. DUNCAN, TENNESSEE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND
UNEMPLOYMENT COMPENSATION

DAN ROSTENKOWSKI, ILLINOIS, CHAIRMAN
COMMITTEE ON WAYS AND MEANS

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M. KENNETH BOWLER, STAFF DIRECTOR
DEBORAH G. COLTON, SUBCOMMITTEE STAFF DIRECTOR

A.L. SINGLETON, MINORITY CHIEF OF STAFF
RONALD T. HASKINS, SUBCOMMITTEE MINORITY

March 16, 1988

Mr. Charles Bowsher
Comptroller General
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Bowsher:

The Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means recently held hearings on the Child Support Enforcement (CSE) program. During one of these hearings, several Subcommittee members asked Wayne Stanton, Director of the Department of Health and Human Services (DHHS) Office of Child Support Enforcement (OCSE), about recent changes in the CSE audit policy.

Some witnesses questioned whether the OCSE audit procedures comply with "GAO Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" (known as the "Yellow Book"). Mr. Stanton testified that he believes that the OCSE is in complete compliance with all provisions of the GAO standards.

We would appreciate your help in clarifying this situation. In particular, we would like you to review the current OCSE audit standards and procedures and tell us whether they are consistent with accepted government practices (i.e. the Yellow Book). To the extent you wish to comment on other aspects of the reorganization, please feel free to do so. Also, we would like you to solicit comments on your findings from OCSE and the DHHS Inspector General.

Since this letter, and your response to our request, will be printed in the record of the hearing, we ask that you complete your review and report to us within 60 days. If you should have any questions or need additional information, please contact the Subcommittee staff at 225-1025.

Sincerely yours,

Tom Downey
Thomas J. Downey
Acting Chairman

Hank Brown
Hank Brown
Ranking Minority Member

GAO United States
General Accounting Office
Washington, D.C. 20548

Accounting and Financial
Management Division

B-221220

May 16, 1988

The Honorable Thomas J. Downey
Acting Chairman
Subcommittee on Public Assistance and
Unemployment Compensation
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

Your March 16, 1988, letter asked us to review the current audit policies and procedures at the Office of Child Support Enforcement (OCSE). You requested that we determine whether OCSE's policies and procedures are consistent with generally accepted government auditing standards as contained in our publication Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (1981 revision), generally called the Yellow Book. You also asked us to solicit the views of OCSE officials and the Department of Health and Human Services (HHS) Inspector General. As agreed with your staff, we made no attempt to review the actual implementation of the OCSE's audit policies and procedures to determine whether audits were being conducted in accordance with the standards.

We found that the OCSE's audit policies and procedures generally provide a basic framework for ensuring compliance with the Yellow Book standards. However, policies and procedures covering the independence and fraud, abuse, and illegal acts standards would need to be revised to avoid creating the appearance of not fully complying with the auditing standards. This letter addresses our views on these two standards as well as concerns raised about the scope impairment and evidence standards.

Federal regulations require that OCSE audits follow the standards promulgated in the Yellow Book. We reviewed OCSE audit manual guidance, audit guidelines and administrative memoranda to determine if they contained policies and procedures covering all of the standards in the Yellow Book and whether existing policies and procedures were adequate to help ensure compliance with the standards. We also looked at procedures established during the last year which became controversial within the agency to determine if they were consistent with audit standards. We discussed these issues with OCSE audit officials, program officials, and with the HHS Inspector General.

Effective policies and procedures help to ensure that audit operations conform to generally accepted government auditing standards. However, it must be noted that having policies and procedures that meet the standards does not mean that the agency necessarily complies with these standards. Likewise, an agency may not have adequate policies and procedures, yet still meet the standards in day-to-day operations. Additional audit work would be needed to determine OCSE's compliance with the standards.

## Independence Standard

The Yellow Book states that auditors must be free from personal, external, and organizational impairments to independence and must avoid even the appearance of an impairment to independence. Some procedures adopted by OCSE in the last year have raised questions about the appearance of an independence impairment. In addition, the organizational placement of the OCSE audit division suggests an independence impairment.

The procedures adopted last year included (1) co-locating regional audit staff with regional program staff in several regional offices and (2) increasing regional administrators' responsibilities for hiring auditors. Concerns have been raised that these actions provided agency administrators control over audit personnel which could impair the auditor's independence. Agency management officials stated that these changes were made only to improve the efficiency of program operations and there was, and is, no intention to place any controls on the audit division that would impair its adherence to audit standards.

We believe that co-locating audit staff with program staff is not, in itself, an impairment to independence. It does not create the appearance of an impairment as long as auditors continue to report to audit division managers, and not program officials such as regional administrators. Program officials and audit officials alike said that auditors are reporting only to audit division personnel.

Regarding the hiring of auditors, we believe the changes in OCSE procedures give the appearance of inappropriate involvement of program management in audit division affairs. These procedures provide for employment applications to be sent to OCSE regional administrators who then confer with audit personnel about who should be hired. Regional administrators have the responsibility for recommending which applicants should be hired with the concurrence of audit personnel.

Previously, audit personnel reviewed the applications and recommended applicants for hire. Agency administrative officials said the regional administrators and the regional audit staff work together in the hiring process and that the changes in procedures would not affect who was hired. However, we believe that involving regional administrators in the selection of applicants for hire creates the appearance to third parties of an impairment to the audit division's independence. This procedure would need to be changed to fully comply with the Yellow Book.

The audit standard on independence also states that the audit function or organization should report to the head or deputy head of the government entity to achieve maximum independence. We found conflicting OCSE policies and procedures regarding the organizational placement of the audit division. OCSE audit policy states that the audit division reports directly to the agency's deputy director. However, agency policy reflected by OCSE's organizational chart shows the head of the audit division reporting to the associate deputy director. OCSE program officials and audit division officials told us that the director of the audit division reports to the associate deputy director.

The day-to-day operations and the organizational chart at OCSE give the appearance of an impairment to the auditor's independence. To fully comply with the Yellow Book, OCSE policies would need to be revised to ensure that the audit division director reports to the OCSE director or the deputy director and that the agency's organizational chart reflects this relationship.

## Fraud, Abuse, and Illegal Acts Standard

The Yellow Book standard on fraud, abuse, and illegal acts requires auditors to watch for any indications of fraud, abuse, and illegal acts during an audit and to identify any effects on the entity's operations and programs. We found references in OCSE audit guidance on the need for auditors to be alert to fraud, abuse, and illegal acts. However, we did not find substantive policy and procedural guidance on auditors' responsibilities and appropriate actions for dealing with these situations. To fully comply with Yellow Book standards, OCSE would need to expand its policies and procedures for dealing with fraud, abuse, and illegal acts to clarify the auditors' roles and responsibilities in this area.

### Scope Impairment Standard

The audit standard on scope impairment identifies one type of impairment as denial of access to sources of information, such as books, records, and supporting documents or denial of the opportunity to obtain explanations by officials and employees of the organization, program, or activity under audit. In a letter to state officials in May 1987, OCSE's director detailed some changes in audit procedures which were intended to modify the scope of the agency's audits and expedite the audit process. These new procedural requirements, which were to be incorporated into a future Action Transmittal, caused serious questions to be raised about scope impairment. However, modifications were made to the new procedural requirements before they were issued in an August 1987 Action Transmittal.

Among the changes announced in May were those requiring states to send audit case files to one location for statewide audit, evaluation, and analysis. State agencies were informed that auditors' judgments and conclusions on the states' child enforcement support services would be based entirely on the case file and related records and documentation furnished by the state at the time of the audit. According to the May letter, auditors would no longer attempt to obtain additional information related to the case or to interview program staff to elicit explanations to supplement case documentation.

Between May and August 1987, the procedures were discussed among OCSE program and audit officials, as well as the HHS Inspector General and general counsel, in preparation for issuing the final procedures in an Action Transmittal. Concerns were raised that these procedures would impair the scope of the audits by limiting the auditors to case file data and related documents and preclude auditors from obtaining case-related information or conducting interviews. In the final transmittal, issued in August 1987, the requirements were modified to be somewhat less restrictive. States were permitted to send case file data to more than one location in the state and audits were to be based primarily on case files and related data, but not entirely on it. The transmittal cited provisions in existing program regulations which require states to make available to auditors other records as well as state personnel to answer auditors' questions.

OCSE officials told us they never intended to restrict the scope of the audits, but were only seeking to emphasize to states the importance of keeping good records and control over their cases and to expedite the audit process. According to audit division officials, OCSE program officials have never restricted or prohibited auditors from obtaining any data they needed for an audit.

We believe the procedures in the August 1987 Action Transmittal regarding auditor access to auditee files, data, and personnel are adequate to meet Yellow Book standards regarding scope and pose no scope impairment. The transmittal, however, raised another controversy, discussed below, about the competence of audit evidence.

## Evidence Standard

The August 1987 Action Transmittal directed state officials to provide duplicate copies, not originals, of their case files for all sample cases audited. According to the transmittal, this instruction was to ensure that original state files would not be lost or misplaced and that the state could continue to provide child support services during the period the audit was conducted.

The Yellow Book evidence standard states that original documents are more reliable than copies and are more competent audit evidence. We believe that duplicate records are acceptable as long as auditors perform tests of the duplicate data to satisfy themselves that the files are complete and that documents have not been altered. OCSE policies require states to certify that duplicated case files and related documents are complete and accurate and auditors are required to perform tests to verify the accuracy of the data provided. The procedures for testing the validity of the data, if followed, should help ensure that the duplicate records are acceptable audit evidence. For example, auditors are instructed to watch for tampering or alteration of records when reviewing files. Our assessment did not address the nature of such tests or the extent to which they are being implemented.

We briefed OCSE audit officials on the results of this assessment. We are also sending the results of this assessment to the Honorable Hank Brown, Ranking Minority Member of this subcommittee. We hope this information responds to your request. If I can provide any additional information, please call me at 275-9359.

Sincerely yours,

John J. Adair

John J. Adair
Associate Director

911633

Acting Chairman DOWNEY. Thank you.

The next panel will please come to the table. We are privileged to have our former colleague and friend, Jim Mattox, the attorney general of the State of Texas; Mr. Grady Hedgespeth, the deputy commissioner of the Department of Revenue for Child Support from the Commonwealth of Massachusetts; Ms. Ann Helton from the State of Maryland, State Support Enforcement Administration; and Mr. Tony Sanders, IV-D coordinator, Baton Rouge, LA., and president-elect, National Child Support Enforcement Association.

Mr. Attorney General, it is a pleasure to have you back. You've been back before. If you would begin, your statement, of course, will be part of the record. I will put this to you, Jimmy, and to the other panelists, if you care to respond to what Mr. Stanton has said at some point, or you feel compelled to, please feel free to do that outside the body of your testimony.

Jim.

## STATEMENT OF HON. JIM MATTOX, ATTORNEY GENERAL, STATE OF TEXAS

Mr. MATTOX. Mr. Chairman, I thank you for allowing me to be here and I really appreciate the extremely important work that this committee is doing. I will respond at times to some of Mr. Stanton's testimony.

Let me say this, I have had the opportunity to be involved in the child support collection program now since 1983, September of 1983. In my State this program was being handled by, in essence, our welfare department, and I sought the opportunity to take over the program because we were basically the last in the Nation in our collections.

We have improved collections by about 300 percent. Our case load has gone up from 180,000 to 325,000 because people have found that they have some expectation of recovery. What we have found is that the problems are really overwhelming. The expectation of this committee is somewhere up here, of the States. The States' performance and capability to perform is somewhere much lower than what this committee would like to see. Some of my recommendations are directed toward that.

I might say this for Mr. Stanton. Mr. Stanton has exhibited a far greater willingness and interest in this child support program than what has been exhibited by previous holders of his responsibility, and he is an aggressive individual toward trying to get the States to comply. The States have not been penalized all they should have. They should have been penalized because of our lack of performance.

Texas has adopted many of your 1984 amendments and we are making good strides with them and I think that those amendments have been very helpful in Texas and I think that they will be for other States as they are adopted, and I will cover some of those as we move along.

I might say this. I can tell this committee is concerned about auditors. Let me tell you what. You do not need an auditor or a hundred of them to tell you that the programs that relate to States are messed up. It is pretty simple. You have just got to get a few figures that can be handed to you and that the States will most willingly hand to you. It is not a question of hiding the ball, because we are so overwhelmed with problems, there is just very little dispute about the problems.

Now, most of us would not like to be penalized, although that may be what is necessary to bring to the attention of the State legislatures the need for change.

The most significant challenge for this committee is to figure out a way to shift the burden of collecting child support away from the custodial parent to the State. I know you think you are doing that somewhat, but let me say this, the system is still failing because it is requiring the custodial parent—and most of those parents simply do not have the strength of financial capability to collect child support—to try to in effect enforce a program.

One parent will not deal with it. The other parent tries to, and the child is left somewhere in the lurch. In some way or another that responsibility must be shifted toward the State for greater action, because the child support payment is not due the custodial parent, it is due the child, of course.

I have several recommendations that are very specific and I want to make them to you. The first is, I think you must require the State to absolutely monitor the amount of child support payments that are made to the child, both on the behalf of AFDC parents and on non-AFDC parents, whether the payments are made voluntarily or whether they are made involuntarily and enforced through this system.

In Texas, we have a system—and I am going to use Texas as an example, and I do not mean to dominate it from that perspective, but just give you an example—in Texas when a child support payment is paid, it must be paid through the court, the registry of the court, or through the child support collection agency.

At a very minimum, that provides a record keeping mechanism for this enforcement mechanism. Your legislation does not mandate that. It mandates it as to cases that go through the IV-D program, but not for all the cases. Very simply, you must, if you ever really want to get a handle on this program, is to mandate that child support payments must be made through some record keeping agency.

You can look, at the fact, as has been described to you, how few people pay all the child support that is owed. Some people say, well, I am complying. Well, if we have some people complying, it is less than about 25 percent. And if that is the case, they may have a little additional burden placed on them, but I can assure you this, it will save a lot of fighting if you do that.

The second aspect of that same problem is that this committee should mandate that the States keep overall gross figures about how much has actually been ordered to pay in child support, how much is being collected through wage garnishment, and try to keep those figures on a quantitative basis.

Today this committee has absolutely no idea how much child support has been ordered in any State—well, maybe one or two States might be an exception—but States in general, and how much is actually being paid. You have got no idea. I have no idea, and I can assure you this, despite some of the studies that have been done by our child support offices, they do not know either. The figures are not available to you.

You ought to mandate that that record keeping system be put in place, because without it, you are going to continue to have major problems. This is particularly true where you have mandated through your legislation and your welfare reform legislation the concept of reviewing every 2 years the child support orders.

Well, we cannot even enforce the child support orders we have got, much less review them every two years. And until you get a record keeping system put in place, you are, again, so far above reality that you will never get it done. So you are going to have to get that put in place, some kind of mechanism.

The second system that I recommend, and as I read the bill that you all have introduced—and I know that this testimony goes beyond that bill—but it is my understanding that you are in effect saying that a wage garnishment should go into effect immediately. I want to point out to this committee so that you will recognize that your wage garnishment provision is going to apply to only cases that go through your IV-D program. It is not going to apply to all divorces that are granted with child support orders implemented in them.

Now, in Texas we have put in place a requirement that all child support orders must have a wage garnishment provision to be implemented within 30 days. I know that you think that because you are going to say, well, it is going to go into effect immediately, that that is going to have a big impact. It is not going to have a big impact because the fact is that the child support program, IV-D program, does not get the case until there is an arrearage most of the time.

So in effect you are going to already have an arrearage, whether it be 30 days or 60 days or 2 years before your mandated program ought to go into place. What you need to do is to mandate and require that every state implement legislation that the wage garnishment go into effect immediately on the granting of the divorce and the judgement—immediately—and that all payments should be made through the registry of the court immediately. And then you will have an impact in trying to really accomplish what you want to accomplish.

You will not have to have an arrearage.

Now, in Texas we have been getting judges to encourage the parties to voluntarily agree to that kind of wage garnishment proposal. It is a very helpful provision. It stops all the squabbling, all fighting, and it also removes the stigma that exists when somebody has to theirs through wage garnishment and somebody does not have to do theirs through wage garnishment. If it becomes the norm rather than the exception, well then it is a far better approach to your collections.

My third recommendation in this area is, there are a number of experimental programs that are taking place that I think are going to be very helpful to provide us in the long run with information, but the important thing is this. Once a custodial parent complains about the failure to pay child support, or if you have set up a mechanism for monitoring that failure to pay child support, when a person is supposed to have paid on Friday and has not paid, within 10 days a letter requiring a collection process to go into place should be in order right then. That should be monitored and carried out by the State.

I think you would see a 50 percent increase in collections if you mandate that the State in effect set up that monitoring procedure and make it work. We need to remove the courts from this process. It needs to be a totally administrative type process and I think you are moving in that direction. It should be one where the custodial parent does not have to spend a small fortune to invest in and try to enforce these programs.

But if you can ever set up that State monitoring program, we have had some demonstration projects that are telling us that we are seeing dramatic improvements when the letter comes from that State saying, you better pay, rather than the custodial parent saying, well, honey, would you please pay. It is just that much difference.

Now, there are a couple of areas that I want to make recommendations to you also in the area of your formulas. One thing is extremely important that I want you to understand that Mr. Stanton and them I know understand. It is that this committee is operating under the delusion that the States are putting in their own money to enforce these child support programs.

Now, some of these folks may tell you they are, but the fact is, we are operating on Federal money. Now, we may have put up some money to start off with, but this match that we are talking about, in essence what we are doing is, we are taking the money that we earned the year before from the Federal Government, or that we saved by collecting AFDC, and then we are in effect putting that into our enforcement program.

We are not putting lots of State monies into this program. I wish we were. And if you think that that is what you all are mandating, you are not, because it is just not happening. So what I would tell you, in some States such as Texas we have a very serious problem, too, some of which has been promoted, I think, but the National Child Support Office in that the States have been led to believe that the child support collection program is a program through which States can make a lot of money to use the money for purposes other than child support collection.

I will give you an example. Texas is doing a better job than we were but still a miserable job in child support collection, and yet our legislature this last session took $13 million away from our program that we earned through the child support collection program and put those moneys over in some other needed program, some other balancing budgeting type program.

But the fact is, until the states can get all the money that we need to do the kind of enforcement that we need to have, this committee should put a provision in this bill saying that none of the money that is earned through the Federal child support collection program can be sent and spent in any other program. It is a very needed amendment because other States are having some of the same problems.

Mr. Stanton, for instance, has agreed to come down to Texas to testify and to try to encourage our legislature not to follow this approach in the future. But there is nothing that mandates that they not do it. You should mandate it, because it is an extremely important point.

The last point that I want to make to you is this. Of course, I would like to see you remove the cap that may be earned on the non-AFDC support collections. Your cap right now, of course, is as high as your AFDC collections are. What that does to us in Texas, for instance, is that we have 117,000 cases that are AFDC collections. We have 200,000 cases that are non-AFDC collected.

We collect twice as much money on non-AFDC as we do from AFDC. So there is fully half the money that we collect on the non-AFDC cases that we receive no incentive for. Now, that would cost you more money in this program, but if you will remove that cap, I will assure you that you will see a much better improvement in the collection.

But let me say this as an alternative to you, if you do not remove that cap, at least one thing you should do, you should give us a 6 percent bonus, an incentive, for collecting URESA cases. For instance, last year in Texas we collected $5 million worth of URESA cases. We got no incentive for the collection of those cases for out of state.

It would cost you all about $300,000 to provide Texas with that incentive. If we were to get that incentive, it would be a far better benefit to us and a major improvement to us. I know that you are interested in other kinds of things, such as paternity cases and other matters, but the fact is, you are not going to get ample attention to paternity cases and ample attention to a number of these cases until we can have at least the kind of resources we need to handle the cases that are most easy to handle.

We are not even handling them, much less the hard ones. So I just want to commend this committee for your interest and your effort and if you adopt some of the recommendations I have made, I think you will see a major improvement in your 1984 amendments and I think in the long run we will see improved collection.

Thank you.

[The statement of Mr. Mattox follows:]

## STATEMENT OF HON. JIM MATTOX, TEXAS ATTORNEY GENERAL

Let me say that I believe the failure to pay child support is a very real and tragic form of child abuse.

So I am pleased to have this opportunity to underscore my support for this bill, which recognizes the fact that child support enforcement is the cornerstone of any serious attempt at welfare reform.

History tells us that the phrase "Women and Children First" originated on the night of April 14, 1912, when the Titanic went down in the icy waters of the Atlantic.

We are told that women and children were first that night. First to be lifted into lifeboats. First to be rowed to safety. First to be evacuated from that great ship, which was said to be unsinkable.

What we are not told, however, is that those women and children were traveling first class. Back in steerage, the vast majority was held back - some of them at gunpoint. Half of those women, and 70 percent of their children, went down with the ship that night.

Today, women and children are still first - first to fall into the gulf of poverty.

We live in a nation that is said to be as unsinkable as the Titanic. Yet, far too many of our women and children are still traveling in steerage - and there are simply not enough lifeboats to go around. For them, the daily reality is: Women and children last.

Mr. Chairman, as one who has been on the front lines of this battle for over five years, I wish to propose a number of improvements to strengthen the proposed legislation.

### GENERAL RECOMMENDATIONS

My first three recommendations fall outside of the area of child support. The first, I know, is rather controversial. But I believe it speaks to the heart of the problems over which you are trying to gain control.

1). We will never gain such control unless we come to grips with the numbers of unplanned children or children born to those who cannot afford them. This issue must be addressed, regardless of its controversy. Clearly, incentives can be provided through the AFDC financing mechanism to require the states to establish birth education programs. The problem is not much the first birth to an AFDC family but the multiple births that take place, requiring the taxpayers of the nation to subsidize these family units.

I recognize the limited jurisdiction of this committee. But financial incentives can be attached to the AFDC program to bring about this much-needed reform.

2). The second recommendation I offer deals with child care. While I believe it is a step in the right direction to reduce from age six to age one the time when an AFDC recipient is required to participate in job training or educational programs, a more appropriate standard would be the average time it takes women in private employment to return to work. I know that this, again, is a controversial area. But the public will admire and respect your courage in attempting to set the most realistic age level.

3). In addition, I recommend the establishment of demonstration child care programs in existing elementary school facilities. It is important to note that these would be operated by additional staff, not school employees. They should open early, for children whose parents must be at work before the start of school, and they should remain open late, allowing parents who work beyond the end of the school day to pick up their children on the way home.

These facilities should also operate during summer vacations and other times of the year when parents must work even though their children are out of school. During those periods, remedial education programs should be offered to the children.

I urge you to provide a provision for making funds available for demonstration models of this program throughout the United States.

## SPECIFIC CHILD SUPPORT RECOMMENDATIONS

On the topic of child support, Mr. Chairman, I submit that the most significant improvement would be to shift the burden for collecting child support from the custodial parent to the state. Once an initial complaint is filed, the state must bear the obligation to collect child support on an ongoing, regular basis.

1). Each state must be required to monitor all voluntary or involuntary child support payments. At a minimum, this will provide accurate record keeping on the number of child-custody awards, the amount of wage assignments ordered, and the amount collected. Each jurisdiction will then be held accountable for meeting federal guidelines on the levels of child support they award. This is not only in the best interests of the children, but it is the law in Texas; it should serve as a model for the entire nation.

2). Every divorce decree involving a child custody judgement should contain a wage assignment provision. It is my view that such wage assignments should take immediate effect, unless both parents request otherwise, and upon a finding by the court based on evidence, that it is not in the best interest of the child to order wage withholding.

3). Once an arrearage occurs for any reason, and upon complaint by the custodial parent to the IV-D agency, it then should become the responsibility of the state to collect child support payments - rather than placing burden of subsequent complaints on the custodial parent. This is particularly useful in the case of self-employed non-custodial parents.

Mr. Chairman, with regard to federal formulas for reimbursing the states, I propose two improvements:

1) As Attorney General, I run the child support program in Texas. We have been working hard to strengthen our efforts. In FY 1983, they year before my office took over the program, $18 million was collected on a caseload of about 180,000 cases. Last year, we collected more than $70 million - an increase of nearly 300 percent - on a caseload of 320,000 cases. The cost effectiveness of this program (total dollars collected per administrative dollars spent) more than doubled, from $1.19 in FY 1983 to $3.04 in FY 1987.

But there is a problem. In my state - and in many others - the legislature has taken it upon itself to seize a large portion of the earned revenues and federal bonuses we receive from our IV-D programs; they've diverted that money to other purposes. That represents about one-half of our total child support budget. If the state legislature had reinvested that money in child support programs, the $13 million would have helped us qualify for a higher federal match. The result? A doubling of our budget.

In addition, we are currently able to effectively work only about 30 percent of our cases in Texas. During the last quarter of 1987, more than fifty-nine thousand new cases were filed with our agency, and we are currently receiving an average of ten-thousand AFDC referrals each month. If we doubled our budget in the manner I describe, we would also double the number of cases we can adequately work - and collect on.

My proposal, therefore, is to mandate that all revenues and federal reimbursements for child support enforcement be plowed back into child support enforcement - and not siphoned off to help balance the budgets of other state agencies.

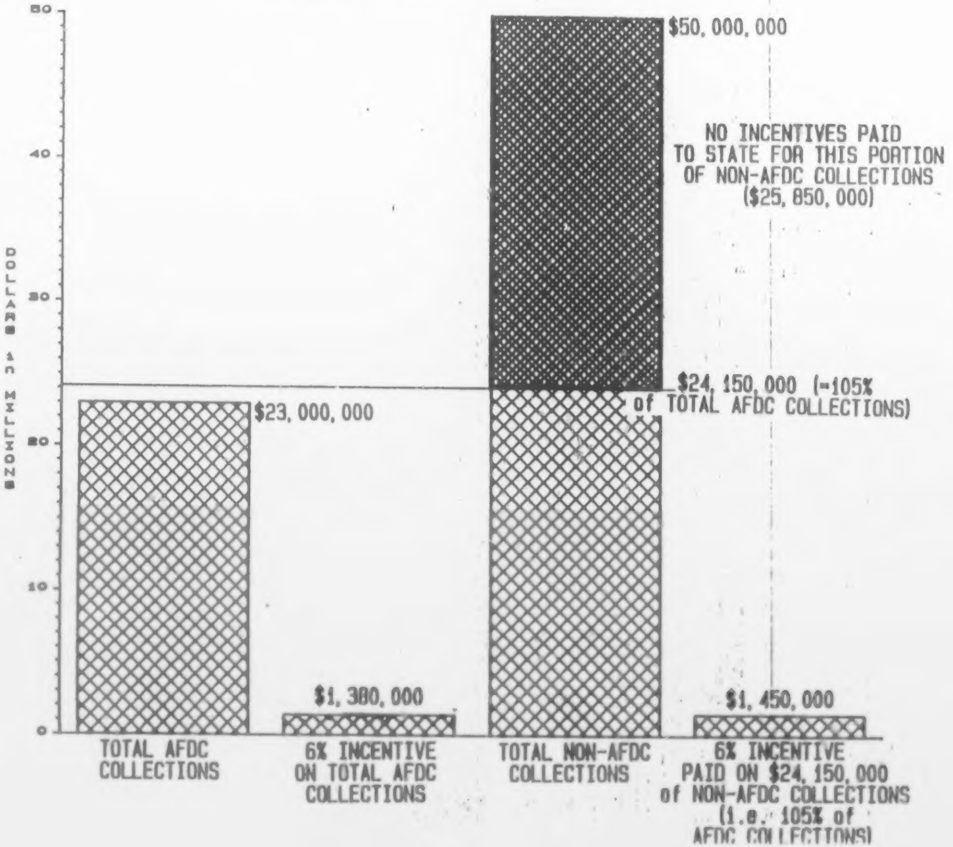
2). The cap on incentives for non-AFDC cases should be removed. There is an overwhelming demand placed on state agencies by these non-welfare cases. Some states have simply failed to help non-AFDC clients because they receive no incentives in return. But statistics show that, in Texas, we have put more of our resources into non-AFDC cases than nearly any other state. And, as a result, our program is out of balance. In FY86, most states had non-AFDC caseloads of under thirty percent; in Texas, the figure is currently about sixty percent. For every two paying non-AFDC cases, the Texas IV-D program can boast only one paying AFDC case.

Consistent with this argument, I further submit that Texas receives nearly 8.5 percent of the nation's incoming URESA cases (only two states have a higher percentage). Fifteen percent of collections in Texas are made on behalf of other states, while the nationwide average in only seven percent. Therefore, if Congress is unwilling to eliminate the cap on non-AFDC collections, it should at least allow for an incentive - over and above the existing cap - on non-AFDC money collected on behalf of other states. In FY86, for example, Texas collected over $5 million in non-AFDC payments on behalf of other states, and obtained no incentives for this money.

Mr. Chairman, during the years that I have run the child support program in Texas, I've seen ample proof that children without childhoods are a frightful sight.

I urge you and the members of the committee in the strongest possible terms to consider my recommendations. The important work you have done in this area has brought us close to our common goal. It must not now be allowed to fall short of that goal: to ensure that women and children really do come first.

TOTAL COLLECTIONS (APPROXIMATE)



Acting Chairman DOWNEY. Thank you, Jim.
Mr. Hedgespeth.

## STATEMENT OF GRADY B. HEDGESPETH, DEPUTY COMMISSIONER OF REVENUE FOR CHILD SUPPORT ENFORCEMENT, DEPARTMENT OF REVENUE, COMMONWEALTH OF MASSACHUSETTS

Mr. HEDGESPETH. Thank you very much, Chairman Downey and members of the committee. It is indeed a pleasure to be here from the People's Republic of Massachusetts to give you our unique perspective on child support enforcement.

I have heard a lot about the Austin to Boston connection, but sitting here next to the attorney general, it really comes home to roost since in 1986, Gov. Michael Dukakis signed into law exactly the recommendations that Attorney General Mattox suggested should be adopted nationally.

So it might be informative to this group to see where Massachusetts has progressed since the child support enforcement program was turned over to the Massachusetts Department of Revenue, or as we call it, DOR, on July 1, 1987. At that time, I became the IV–D director as deputy commissioner of the Department of Revenue.

I have to tell you that we were initially opposed to the idea of DOR taking over the child support program. As experienced tax administrators, we felt that it would at least, at the very best, cloud our mission and maybe even supplant our mission of honest, fair and firm tax administration. But after a year of preparation for the program and after now 8 months of stewardship over the child support enforcement program, I can say that there are many parallels that we are seeing between child support administration and tax administration, and we are excited about the challenges that lie before us.

I will not read completely from my written testimony. I think it goes into a lot of what we are currently doing, and I do conclude with, I think, important suggestions about where Federal leadership, and especially the leadership of the Congress, can take the child support program in the future.

But I would like to point out some of the kind of unique, I think, experiences that we are progressing with out of the Department of Revenue, based on the large success we had with improving voluntary compliance with our tax laws under legislation that was in effect similar to the child support legislation that was passed earlier in 1983.

Since that time, we have increased tax collections in our state through voluntary compliance in excess of what we are taking in through nonvoluntary compliance, actually auditors going out, compliance people going out to assess taxes. And we think that in fact this same focus on the child support enforcement program makes sense to start to change the attitudes in America which allow the wholesale financial neglect of the children in our society and make a bold statement by the Federal Government that this is a policy that will no longer be tolerated in this country.

All of my testimony and all of the things we are doing in the Massachusetts Department of Revenue to improve child support enforcement really hinge on three principles: establishing child support orders high enough to make a difference in people's lives; to actually then use the power of our computers to create a reliable, timely and understandable system to assist families in need; and finally, improving voluntary compliance through predictable enforcement of child support orders.

We are following a strategy based on four major principles to improve our performance in Massachusetts: centralization of payments; increased automation; cooperation with other law enforcement agencies; and visible and vigorous enforcement. Certainly those of you familiar with the 1984 amendment provisions will see that this is exactly what Congress called for in our State programs.

I am also happy to say that although Massachusetts historically has ranked as one of the top 10 States in the child support arena, the implementation of this strategy has led us through the first 6 months of this year to increase our collection base by 29 percent, and in that same time period, we have helped 31 percent more families off of welfare and into financial independence than we did last year.

For the year, we expect to increase collections $40 million on top of a base of last year's collections of $113 million, a 35-percent increase. For a program that was generally recognized to be performing well, I think you will see that the implications of a coordinated, orchestrated strategy based firmly on sound recommendations from our legislature and our Governor is really the key to getting the kind of success you want out of the child support program.

If I could, I would like to conclude my remarks by focusing on three specific areas where I think the Congress can take a tremendous lead in the child support arena. The first area is in interstate cases, of which much has been made. Up to 30 percent of our cases in Massachusetts involve one parent living in another State while the other parent resides in Massachusetts.

To deal with evasion of all sorts, we are putting in place a pyramid of enforcement sanctions, which has as its broad base at the bottom dunning notices with predictable consequences, as Attorney General Mattox has called for, and increases through administrative lien and levy provisions, and ultimately jail at the top of the pyramid.

We think that this is necessary to match the pyramid of evasion which starts with pretty widespread and casual evasion simply caused by no one ever following up on an order, and extends all the way to people doing a number of things with their life to structure it so that they will escape detection by law enforcement agencies.

What we are finding in the interstate arena is that the simple crossing of State lines often provides the safe haven for people who would choose to avoid their child support orders, and hence we have got a gaping hole at the top of our enforcement pyramid.

I think we need Federal help to close that hole. Now, I might be one of the more aggressive of my fellow IV-D directors in terms of what I think the Federal role is in child support enforcement, but start from my basic premise that we have got to change attitudes in this country. And when you start with that basic premise, you will realize that I believe Federal legislation is necessary to make crossing a State line for the purposes of avoiding a child support obligation a Federal offense; not just a State offense, but a Federal offense.

We need a bold policy statement from the Congress and from the Chief Executive of this country that says, "you have got to meet your child support obligation." That is a basic obligation and responsibility of parenthood, and to think that the States can individually enforce this, I think, is expecting too much of States' rights and I think that it is too long that we have put up States' rights and ignored children's rights.

To adjunct or to buttress this, we definitely need to continue the efforts of OCSE to improve the services and expand the capacity of the Federal Parent Locator Service, the IRS full collection provisions, and also bring into the fore other Federal agencies to assist in the child support enforcement role.

Certainly, there are many questions that have to be answered about jurisdictions, et cetera, if we are actually to make this proposal a reality, and I would dare say that many people in the FBI would not relish the thought of chasing child support delinquents all over the country. In fact, I would imagine the FBI and the IRS would be pretty disdainful of an expanded role in child support enforcement.

But please take it from the experience of a Department of Revenue who was also disdainful of how we should get into this role. We now see that there is a tremendous amount of synergy between child support enforcement and tax collection and that enhancing voluntary compliance with all basic financial obligations to the State is where a democratic society ought to start.

We believe that voluntary compliance with both tax and child support enforcement laws will improve when the marketplace realizes that delinquency in one area may bring prompt and closer inspection of the other area, and that is definitely having an impact in Massachusetts.

I think with the Federal offense should go a mandatory jail sentence for somebody guilty of such high Federal crimes, because simply putting on fines for a child support evader does nothing to correct the incentives that now exist to take the risk, cross the State line, and not be caught. It amounts to nothing more than a financial slap on the wrist.

If I could turn a moment to the Federal incentive structure, I really think that there is a tremendous number of missed opportunities in using the Federal incentive structure to really set a firm family policy out of the child support enforcement program. Presently, the Federal incentive structure rewards States for collecting and offsetting AFDC payments instead of for trying to help people attain financial independence and leave welfare.

The costs that we could avoid by helping families leave welfare are tremendous. In Massachusetts, the average cost of maintaining a welfare family is $10,000 a year, when you include Medicaid and food stamps. If we could just get 4,400 families off the welfare case loads, we would save $44 million a year. The total budget for child support enforcement in Massachusetts this year is about $44 million, and we plan to assist 7,600 families escape welfare via child support enforcement. The savings should be apparent to any of those willing to push the numbers.

The real future of child support enforcement, I think, lies in lifting parents and children out of poverty and giving them a greater chance to lead healthy and productive lives as children and as adults. If we change the Federal incentive structure to add one more category and not simply have AFDC and non-AFDC be payment categories, but let's come up with a category called ex-AFDC and actually stem the incentives or tilt the incentives to give States the real added measure of oomph behind finding and helping parents escape welfare through the child support system. This would be a much, much better use of limited Federal resource and would be the beginnings of making child support a tremendous adjunct to Federal family policy.

The last measure that I would like to propose is job training for noncustodial parents. Guidelines have had a tremendous impact on the average size of awards in Massachusetts, increasing them 70 percent in just 1 year for AFDC recipients. But in spite of that, the average child support award in Massachusetts is only $50 a week for AFDC clients, hardly enough to provide this opportunity out of poverty.

Therefore, I would suggest that no reasonable program that is going to depend on child support can hope but escape the fact that many parents, many fathers especially of children with kids on AFDC, cannot hope to provide for a reasonable standard of living unless we provide them with job training and with other means to help them find gainful employment. I think you will find that this expansion on the very successful employment and training program in Massachusetts and in other States makes a lot of sense for where this program ought to be going in the future.

If I can stop and reflect a moment, we are one of the few western industrialized nations without a comprehensive children's policy. Now, I am a tax administrator and economist and not a social statistician or someone who can claim a lot of knowledge in the area of how we ought to be improving our social service systems. But if we are going to do anything meaningful to achieve a reasonable comprehensive children's policy, we have got to start just by using common sense, with enforcing the obligations of parenthood, especially those financial obligations of parenthood.

I would like to just leave you with one thought that is guiding us in Massachusetts as we try to do the tradeoffs necessary to make a program work. When we allocate resources in Massachusetts, one thought we always keep in mind is: Kids come first.

Thank you.

[The statement of Mr. Hedgespeth follows:]

# TESTIMONY OF REVENUE DEPUTY COMMISSIONER GRADY B. HEDGESPETH
# BEFORE THE
# SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION
# COMMITTEE ON WAYS AND MEANS
# UNITED STATES HOUSE OF REPRESENTATIVES

Mr. Chairman, members of the Subcommittee, thank you for allowing me this opportunity to testify on the future of child support enforcement. Having been involved in child support enforcement (CSE) for just a few months, at first glance it may seem presumptuous for me to offer my thoughts on the direction that CSE ought to go over the next ten years. But I think I bring with me a unique perspective to the issue.

In July of 1986, Governor Michael S. Dukakis signed legislation transferring the administration of the Commonwealth's CSE program to the Department of Revenue (DOR), effective July 1, 1987. We at DOR were initially opposed to the transfer. We were experienced tax administrators and did not want to confuse our mission. But, after a year of preparation and eight months of actually administering the program, we now see many parallels between child support enforcement and tax administration, and we are excited about the challenges that lie before us.

As we see it, the mission of an effective child support enforcement system is to protect the economic rights of children by enforcing the financial obligations of parenthood. We are all well aware of the statistics that document our collective failure to protect the economic rights of children. Children who live in a single-parent home are the fastest growing group of people in poverty. Two thirds of all those living below the poverty line in Massachusetts are mothers and children. In fact, children in female-headed families are eleven times more likely to live in poverty than children in two-parent families.

The U.S. Census Bureau reports that of the 8.7 million families headed by women, only 58% receive child support payments, and only half of those families with a support order receive all the support due them. Moreover, many child support orders are woefully inadequate. In Massachusetts in 1986, the mean AFDC child support order was about $4,000 per year -- $6.50 per day. It costs more per day to kennel a dog in Boston than these fathers pay to support their kids.

Like it or not, these statistics describe the present state of those who are served by the child support enforcement program. But what does it say about the structure of the underlying system? To answer that question, we engaged a major consulting firm to conduct an independent audit of the Commonwealth's IV-D Program prior to our taking control of it. As Commissioner Kidder summarized in his report of their findings to Governor Dukakis:

> [the consulting firm] found a system with hundreds of hard working men and women in the Welfare Department and in the Probate and District Courts who are committed to making CSE work in Massachusetts. However, they also found a system that offered them little central coordination or support. CSE workers carried crushing caseloads, lacked basic automation support and relied upon computer systems that often provided inaccurate information. They struggled with outmoded laws on paternity, received little formal training, and lacked the critical enforcement powers that we take for granted in tax administration.

I would dare say Mr. Chairman, that the painful truth of this self-examination would be nearly identical in the vast majority of states. Painful though they are, the statistics and the lessons of our self-examination point the way toward what must be done in the future, if we are truly serious about protecting the economic rights of children.

The rest of my testimony addresses the specific actions which I believe we must take if we are to create an effective child support enforcement system. Virtually all of the actions can be grouped together under three guiding principles:

- Establish child support orders high enough to make a difference. Statistics clearly show that most child support orders are simply too low, do not reflect the cost of raising children and do not allow the children to share fairly the earnings (and standard of living) of both parents.

- Improve voluntary compliance through predictable consequences for non-payment. And here, I'd like to put on my tax administrator's hat for a moment. Our tax system works efficiently because most taxpayers voluntarily pay what they owe, allowing tax departments to focus their audit and collection efforts on the relatively few who try to evade paying. This is not the case with child support. Here, more people evade then pay, and enforcement resources are stretched too thin to be effective.

  One of the keys to the higher voluntary compliance rate in tax administration is the use of a strategy of predictable enforcement escalation. The strategy usually begins with a letter and may end with a lien, a levy, the seizure of property or a prison sentence. CSE has had many of the same remedies available to it, but has lacked a strategy of consistent, predictable escalation. As a result, many of the routine enforcement measures (letters and telephone calls) have lost their effectiveness because failure to comply is not quickly followed-up with stricter measures.

- Create a reliable, timely, understandable system that families in need of child support assistance will want to utilize. The existing child support system is not reliable or timely. In fact, in most jurisdictions it is simply overloaded and CSE administrators have to choose between establishing new orders, modifying existing orders and enforcing delinquent orders. To be reliable and timely, the system must be prepared to handle substantially increased volume. This is not simply a primary question of adding staff, although some staff build-up is essential. For the most part, capacity constraints can be eased by creating a more rational CSE system; by working smarter, not harder.

I'd like to take a few minutes now to discuss what Massachusetts is doing to create a more effective child support enforcement system. The key to our efforts is the centralization of payments, increased automation, cooperation with other law enforcement agencies, and visible, vigorous enforcement against child support delinquents.

In Massachusetts, as in most states, child support grew up as a local program. The result of this heritage is a fragmented system where payments are made to scores of different entities and recorded on separate computer systems that can't "talk" with one another. The practical effect is untrustworthy financial data and a serious crimp in enforcement efforts. When financial data cannot be trusted, administrators are reluctant to begin wholesale enforcement campaigns, and when such campaigns are undertaken, too much time is devoted to handling complaints from absent parents who contest arrearage amounts. For example, in Massachusetts, we doubled the number of cases submitted to the IRS for tax intercept this year (from 25,000 to 50,000) but we had to handle 13,800 calls from absent parents who claimed our data was wrong, and in almost 8,000 cases we agreed to reduce or eliminate the amount of money we thought that absent parent owed us. This is an enormous amount of work that could have been spent on enforcement efforts, and graphically shows why a centralized payment system, while not glamorous, is essential to an effective child support enforcement system.

The next step in creating an efficient system is to get most absent parents on wage assignment. Payroll deduction is the lifeblood of the tax administration system and it should play the same role for CSE.

The key difference in wage assignment between tax administration and CSE is that, in tax administration, payroll deductions are universal and automatic. Employers know that all employees must pay taxes, and they routinely withhold taxes from the paychecks of all employees. But employers don't know who owes child support, and too many absent parents are all too willing to keep their employers in the dark on this issue, especially when they change jobs. IV-D agencies, then, must do a more aggressive job of tracking employees when they change jobs.

Massachusetts has some good laws on the books in this area, but those laws have never been fully exploited. We are now moving to enlist the assistance of large employers in promptly notifying us when an employee on wage assignment terminates his employment, and helping us find his new employer. In the near future, we envision a system where corporations -- who already report quarterly the wages they pay to each employee -- flag those employees who are new hires or recent terminations. We can then match those names against our list of individuals who owe us child support and promptly notify employers which of their new hires should be on wage assignment. With most accounts on wage assignment, states can target self-employed absent parents -- who are more likely to be delinquent -- for more aggressive enforcement.

Another important initiative in Massachusetts is the creation of what we call the Kids Team, or the K-Team. The K-Team encompasses everyone -- judges, probation officers, district attorneys, sheriffs, corporations -- who can help us create a more effective child support enforcement system. A key element in the success of this venture has been the establishment of a trust fund by our Legislature comprised of the federal incentive payments for child support collections. The trust fund is not subject to appropriation by our Legislature nor is it subject to other budgetary controls, although the House and Senate Ways and Means Committtees are advised of trust fund expenditures. Since the trust fund grows in direct proportion to our ability to generate more child support collections, DOR is able to plow back the successful efforts of the K-Team into a CSE program with expanded scope and reach.

In return for increased cooperation on child support issues, DOR offers members of the K-Team equipment, personnel, financial support and favorable publicity. The K-Team has already achieved some impressive results -- the arrest of several individuals who owe tens or even hundreds of thousands of dollars in child support, significantly higher amounts of child support orders, and our most successful tax intercept season.

Finally, we are planning some high visibility enforcement actions that will include large numbers of liens and levies as well as seizures and mass roundups of child support delinquents -- all aided by the extensive use of the Federal Parent Locator Service, State and federal tax information, State registration and wage information, and other statutorily approved computerized data matches. I am confident that, by the end of our first year with this program, we will have made significant steps toward putting the E in CSE, and will have begun the critically important step of changing the attitudes of those who think they can violate their child support orders with impunity.

These actions are already having an impact on bottom-line performance. Through the first half of our state fiscal year, child support collections are up 29% over last year and we have helped 31% more Welfare families become financially independent.

But while states can do a lot to help themselves, the federal government must continue to help. I'd like to focus on three specific areas where federal assistance will be key: interstate cases, federal incentive payments and job training for non-custodial parents.

- Interstate Cases - The hardest cases for states to handle are those where the two parents live in different states. Up to 30% of all cases are such interstate cases. In Massachusetts, we are proving that there is much that individual states can do within their borders to improve child support enforcement. We are putting in place a pyramid of sanctions (automatic dunning notices, at the bottom, property seizures and jail at the top) to offset the pyramid of evasion. Yet, our efforts and those of every other state all too often go for naught when the absent parent flees the state. Crossing state lines often becomes a safe haven because the sanctions are no greater and the risk is much less than if the parent were to stay in the original state. Unfortunately, few states have laws which punish interstate child support delinquents harsher than domestic child support delinquents. Fewer still enforce them.

  We need to help plug that hole with federal legislation that makes fleeing a state to avoid a child support order a federal offense. With that federal offense should come appropriate fines and a mandatory jail sentence for a conviction. You may find the latter measure harsh but no amount of fines will balance the incentive to risk nonpayment of support when the sanctions amount to little more than a financial slap on the wrist. In order to back up that effort, we need greater resources at the Federal Parent Locator Service and the IRS to assist states in the detection and full collection/prosecution of interstate cases. The combination of tougher federal sanctions and a greater federal coordinating role in child support would provide a more predictable and progressively tough system of enforcement for interstate evaders.

  The IRS and other federal law enforcement agencies may not fully welcome an increased role in child support enforcement. We didn't either in 1986, but now, two years later, I can see that our Legislature and Governor had the right idea in sensing that child support could benefit from DOR's experience in enhancing voluntary tax compliance. Also, I now believe that there can be a synergy between effective child support and tax enforcement programs since we're seeing that many child support cases also involve tax delinquency. We believe that voluntary compliance with both tax and child support laws will improve when the marketplace realizes that a delinquency in one area may prompt closer inspection of another.

A stiffer set of interstate sanctions is not unlike the legal treatment for possession and transportation of firearms -- the sanctions and consequences escalate severely when a state line is crossed. I am not suggesting that the FBI should get involved with every interstate child support case, but we need a bold statement from the Congress if we are to change attitudes which have tacitly condoned the wholesale financial neglect of children. The real enemy to the child support enforcement system is the attitude in our society that the non-custodial parent need not be responsible for his kids (almost always a man) -- that their mother, their grandparents or society will take care of them. No amount of states' rights should stand in the way of a bold national pronouncement that every child is entitled to the financial support both his parents are legally required to provide, regardless of where the absent parent resides.

o Federal Incentive Payments - Federal money is critically important to improving the CSE system, and most states attempt to maximize their federal incentive payments. Unfortunately, the federal incentive payments, as currently structured, put far too much emphasis on collections made for the family still on Welfare. In essence, the federal reimbursement system views CSE as essentially a reimbursement mechanism for AFDC costs and may in fact discourage IV-D programs from assisting parents to leave welfare. This is unfortunate and counterproductive, because the real objective should be not to reimburse the government for part of a family's welfare cost, but to get the family off AFDC entirely. This would produce a higher standard of living for the family and would also reduce welfare expenditures. I think a few numbers will illustrate the point.

Last fiscal year, Massachusetts collected $44 million to offset welfare costs. That seems impressive until you realize that it costs more than $10,000 a year to maintain a family on welfare (AFDC, Food Stamps and Medicaid). If we could get just 4,400 families off AFDC each year, we would save $44 million a year. A truly effective CSE system should be able to get far more than 4,400 families off welfare. Massachusetts already has a very successful Employment and Training (ET) program, and we are now working with our Department of Public Welfare to identify those families where neither a job nor child support alone would enable the family to become economically independent, but where the combination of the two would do the trick.

This is where the real future of child support lies, in lifting children out of poverty so that they have a greater chance of growing up to be healthy, productive adults. True welfare reform must recognize this fact, and the federal incentive structure must be changed so that all states begin to focus on this area. In this regard, I would like to propose an additional case category, so that besides AFDC and non-AFDC cases we have ex-AFDC cases, and I would like to see the federal government provide an extra incentive to states that succeed in getting families off welfare and keeping them off. This would be much better federal policy than the current incentive structure which rewards states for being a conduit for non-welfare payments.

- Job Training for Non-Custodial Parents - I just finished arguing for a federal incentive structure that rewards states for getting families off of AFDC. But if the absent parent is unemployed, underemployed or employed in a dead end, low wage job, this strategy cannot work. Massachusetts has some of the most progressive Child Support Guidelines in the country. Absent parents pay at least 25% of their gross income for child support. Yet the median child support award in AFDC cases is just $50 per week. This is much too low to serve as an effective incentive to leave the welfare rolls. To combat these low orders, we must provide job training and job placement services for non-custodial parents, and the federal government can play an important role by encouraging and helping to pay for such programs.

All three items I mentioned -- concurrent jurisdiction, a revised incentive payment structure, and job training for non-custodial parents, are either low cost initiatives, or, in the case of job training, should pay for themselves.

We are one of the few, if not the only, industrial Western nation without a comprehensive children's policy. I am a tax administrator and I make no claims to expertise in this area, but it doesn't take anything more than common sense to realize that enforcing the financial obligations of parenthood must be the cornerstone of such a policy. We cannot continue to create a financial incentive for parents to abandon their children, and a tough, predictable and efficient child support enforcement system can help us tilt our values back toward to where they belong. If I can leave you with one piece of advice on how to navigate through the complexities of welfare reform, it would be to use the same compass that I use to decide on where to allocate my child support enforcement resources in Massachusetts -- kids come first.

Mr. PEASE [presiding]. Thank you very much, Mr. Hedgespeth.

The next person is Ann Helton, executive director, State of Maryland, Child Support Enforcement Administration.

## STATEMENT OF ANN C. HELTON, EXECUTIVE DIRECTOR, STATE OF MARYLAND, CHILD SUPPORT ENFORCEMENT ADMINISTRATION

Ms. HELTON. Thank you.

Congressman Pease and members of the subcommittee, my name is Ann Helton. For the past 5 years, I have served as executive director of the Maryland Child Support Enforcement Administration under the title IV-D act of the Federal Social Security Act. Maryland conducts a State-supervised locally administered program with over 900 employees, including some 29 local Government contracts, and we currently rank ninth in the country in collections, collecting about $112 million in our last State fiscal year.

I would like to apologize for not having my statement ready in advance for the record. I am unfortunately one of the States who, as Congresswomen Roukema puts it, is feeling the hot breath of the Federal Government. I have been working arduously with our State legislature over the past several days and weeks to pass two of the last requirements of the 1984 amendments. Everything we have done to date has been for naught, but those little sanction letters do seem to be having an effect. And we do want them where they are appropriate, and we do believe that our legislature should act accordingly.

The topic before you today is the future of child support enforcement; and because the future of all the States' programs is intrinsically bound to how well the Federal Government answers that question, I wanted to be here today and look ahead with you.

I would like to divide my remarks into two parts: those future moves that indicate what should be an appropriate Federal role, a strong Federal role, and those that I think should be appropriately led by the States. And as a State director, I have tried to be an introspective about that as possible. Mr. Stanton alluded to what the States should do. I think there is some ring of truth in what we ought to look to ourselves to do after you have provided, or in accordance with, the leadership that the Federal Government provides.

Under the Federal leadership areas, I think there are a couple of things that you ought to consider looking at in the future. One of them has been mentioned so I will not go into detail, and that is: You ask in your subject material to speak about trends and what are the demographics of child support. I think you do need to have a growing awareness about the magnitude of the non-AFDC caseload, especially in light of the fact that State and Federal Governments, in looking at welfare reform, are looking to reduce their caseloads. What does that do to child support in terms of their AFDC IV-D program in the future?7

Maryland is moving in that direction. In fact, Maryland's assistance caseload is the lowest it has been in 15 years. This is starting to have an impact on the AFDC IV-D caseload, and yet the whole program, particularly in light of the incentive structure, is geared to that.

We are also looking at work and training programs, and Maryland is currently operating at its own expense, within the confines of its child support program, a mandatory work program for fathers in the paternity system. We are doing it as orders are established, and we are doing it at the point of enforcement. So there is something there in terms of lowering AFDC caseloads, working with the noncustodial parents that says, hey, think about what this trend shows in terms of nonassistance caseloads.

The success of the child support program, whether we like it or not, is still being viewed in light of the savings to welfare costs. We are still looking at that, and I am not sure we have gotten our jaws and our chins up yet about how to look a little differently at it—although, by the way, we have never been able to assess the savings in Medicaid and food stamps. We are always still talking about AFDC.

This success measurement also does not quite coincide with the main thrust of the 1984 amendments. They really do not go together. When you read those amendments, you know that Congress was trying to deal with public demand for services—public demand, not just the assistance caseload—that you were trying to deal with the reality of who is really driving this program today. And if I were a local worker sitting here in front of you, I could tell you how my day happens in terms of the telephone, the walk-ins, the problems, where is my check, the et ceteras, that go with just managing your everyday caseload. It is typically not the welfare client who is calling you, even though they do inquire about their bonus checks from time to time.

It is someone else, and they are, in fact, driving our workload. And you will see from the numbers, if you look at them closely, they are driving the caseload.

The reality of servicing the nonassistance caseload across this country does not begin to mesh with the current Federal incentive structure, and I give you our data very, very quickly. Maryland's AFDC cost-efficiency ratio is $1.24, not a number I am particularly proud of. The national average is $1.31. So we are below the average in AFDC.

Our non-AFDC cost-effectiveness ratio is $2.53; the national average is $2.16. Our AFDC caseload, active caseload, is over 102,000. Our collections are 31.2 million for that same caseload. These are the most recent fiscal year figures.

Our non-AFDC caseload is about 81,000, but our collections are 82.5. So, you know, when you juxtapose those numbers, you can see, not just because orders are higher, where this is all going. The high cost service is obviously establishing paternity. General Mattox has referred to that, and that is usually associated with the AFDC caseload.

These trends cannot be ignored. You cannot keep having the program look at the way you have in the past. So I think the future considerations for Congress should be in the areas of reviewing the incentive structure as it is presently tied to the AFDC collections. You may wish to not put any more money in it, but you may wish to make the incentive read differently. Pushing for paternity establishing in light of costs versus the incentive structure. Incentive structure and cost of paternity have nothing to do with each other. And lastly, you ought to look at the relative importance of the offset to the Federal and State AFDC costs. Is this still the super goal that it once was? Is that really where the goal for this program or emphasis should be?

The second item I envision in terms of leadership for the Federal Government is in the role of automating. I have been reading the statements of record that were made here and the two earlier hearings with interest because that does seem to permeate all of the testimony.

I think you ought to continue the 90 percent funding as a carrot to States, but I think you ought to examine some inflexibility in terms of what Mr. Stanton refers to as building statewide systems. There is a statewide standard which, by the way, does not disturb the State of Maryland. I happen to be in favor of it. So at the risk of sounding duplicitous, I am going to make this statement anyhow.

I think Maryland is a State whose caseload and organization and size says we ought to build a statewide system. It screams for it. And that is the direction we are moving in.

However, the inflexible standard that is generally used by FSA for getting 90-percent money acts as a disincentive to some States to use the 90-percent money. I think you have heard that in other testimony.

If I were the State of California, I do not know how I could manage to really come in and get 90-percent money. And if anybody needs an automated system, obviously it is the State of California. Just on raw numbers, just on terms of management, just on terms of resources. And I do not think they will mind me using them as an example.

I am 18th in population. I can manage to build a statewide system, and I want to do it. But that does not mean it is right for everybody. There needs to be some flexibility to that statewide issue.

I think you need to make absolutely sure that there are automation links to AFDC programs and national data bases. We cannot continue to push these papers around between programs and between interstate cases. And if you want to improve location and interstate efforts, I think that you can make a strong Federal presence for making sure that national data bases are available to us.

The third item is in the area of funding commitments, and I do not want to sound like the old grind but you need to think a little bit about what you want to say for the future about funding, not necessarily just today. In the previous two categories, I mentioned money both times. I mentioned a funding strategy for automation and for incentives. If you cannot lay this out as some sort of clear picture for a funding strategy, what you are saying to the States and their local counterparts is that we cannot provide you the stability in funding so that you can plan your expansions, which most of us have done and/or are still doing, with some exception, which means you cannot expect to meet the demand for service, caseload growth, and new Federal/State requirements.

What can we count on as we got to the legislature? And, you know, you have heard that response many times. Oh, they have lowered, you know, the FFP again.

One way you can do that is to continue to focus on child support funding only. I am totally opposed to any arrangements that bleed child support focus and dollars for custody, visitation and alimony efforts. I do not denigrate those efforts. I do not believe they are meant to be delivered; and in light of the demand for this program, that they should not be delivered in the focus of child support.

The fourth thing you can do is pass major issues in the welfare reform. The most important ones to me are immediate wage withholding, guidelines as a rebuttable presumption, presumption of paternity at a level of at least 95 percent, and a funding incentive strategy for paternity that is coupled with strong and uniform paternity laws. Give us the carrot. Give us the stick. States must have good paternity laws if they want to enjoy a better funding ratio.

My last recommendation for the Federal Government's role is one that has specifically been brought up here today, and that is that you investigate the new audit procedures. This issue is so important to the State of Maryland that our secretary has bumped this issue to our Governor. We intend to take a very, very strong position on this.

First of all, it is generally agreed that the approach being used by FSA provides for laughing stock, if nothing else. And the auditors who really know what their function is and speak honestly about this—auditors; I am not one—will tell you that they cannot conduct a legitimate, truly clear audit that comes out with fair findings which may result in sanctions to the States.

What I believe the new procedures lead to is the possibility of States being able to challenge all of the audit findings. Would it not be a shame at the same time that you are asking the Federal Government to be tough, to be uniform, and to tell the States to do the job you intended them to do, if the whole procedure for audits was in jeopardy or jeopardized by the manner in which they conducted those audits? This all could, in effect, be challenged at the end of that period.

Their own counsel, Robert Keith, advised them that this was not the way to go. Their own counsel. They ignored that counsel, and we all do that from time to time. But internally, they looked at that and said that, in fact, the words were, "Given the legislative history discussed above, one can assume that Congress would not approve a Federal organizational structure for OCSE unless it was truly separate from any other administrative hierarchy." And included in that, they talked about the audit procedures.

By the way, the hooker in all of this is that the new procedures cost a hell of a lot of money. We have estimated that in order not to disrupt client services, not to shut down our operations to put these files together on a quarter of a million cases, it will run us about $200,000. We will charge $136,000 of that to the Federal Government. I do not think the auditors travel at the rate of $136,000 in Maryland when they come there to audit our books. You must look into this in terms of that.

States, what should we be doing? What kind of role should we be taking? One, I think the absolute number one role that States have got to assume is a strong training role for their State programs. This is a totally unaddressed area, both in Federal law and in State normal operating procedures. Some of the States are better at it than others, but there presently is no training presence in the Federal Government per se. And it is up to States to stop counting on it to come from the Federal Government, to organize their own training programs, and to do it in a strong and forceful way. That is one of the really most un-sexy things we have to go to the State legislatures and ask for. But it is absolutely essential that we have trainers and we do this.

We need to provide programs that will give incentives to good workers. I would personally like to initiate a program of cash incentives to people who collect money above and beyond some particular norm. We are going to try and look at that next year.

If Grady's point is well taken that you talk about this in terms of tax collections—and I agree with him—I think that this is a natural. Reward your employees who do exemplary collection jobs and maybe do it in a cash way.

The third thing we ought to do is strengthen our contracts. States have been lax in making sure that contractors deliver. There is no question about that. I am presently withholding five quarters of money from a contractor who has not complied with the 1984 amendments and has not supplied data to our office as required under Federal and State law. And I am going to do more of it.

If you want a contract for this program, if you want to be part of the Title IV-D system, if you want to get that very attractive Federal money, then you are going to do it our way or you are not going to do it at all.

Fourth, we need to improve our management by using automation and staffing combinations, and it is up to States to move the automation agenda. We still need some help and flexibility from the Federal Government to get that money. But it is up to States to initiate that activity.

Last, we need to lessen the court roles, and I think you have given us the tools to do that. It is up to the State to determine whether or not they want to lessen and minimize court intervention, court strategies, court roles in child support. I do not think that we need anything particularly more from the Federal Government to do that. We can take an initiative on our own if our States want to do so. I find that we are sort of on the cusp now. The more we clog their dockets, the more cases we have and they are growing, the more interested they are in talking about other strategies than just bringing this case before a judge.

Last, I think a number of States needs to do exactly what Massachusetts has done, and that is reorganize their program, give it higher visibility, and give it the tools and clout that it needs to get the job done.

Thank you.

[The prepared statement follows:]

STATEMENT OF ANN HELTON, EXECUTIVE DIRECTOR, MARYLAND STATE CHILD SUPPORT ENFORCEMENT ADMINISTRATION

Chairman Downey, members of the Subcommittee, my name is Ann C. Helton. For the past five years, I have served as the Executive Director of the Maryland Child Support Enforcement Administration. Under Title IV-D of the Federal Social Security Act, Maryland conducts a state-supervised, locally administered program with over 900 employees, including some 29 contact agencies. We currently rank ninth in the country in total collections, collecting about $112 million in Fiscal Year 1987.

The topic of consideration today before the subcommittee is "The Future of Child Support Enforcement", and because the future of all the States' programs is intrinsically bound to how well the Federal Government answers that question, I wanted to be here today and look ahead with you.

I would like to divide my recommendations into two categories: Those future moves that indicate a need for a strong Federal role and those that would more appropriately be led by the States.

I. Federal Leadership

A. Trends in Caseload Types

Recognition is needed of the growth in the NAFDC caseload, especially in light of state and Federal efforts to reduce AFDC caseloads through work and training placements. Success in the child support program is still being viewed in light of "savings" to welfare costs (although never assessed with food stamp or medicaid costs). This success measurement doesn't quite coincide with the main thrust of the 1984 amendments, public demand for services, nor the reality of who really drives the workload of our local offices. And the reality of servicing the non-assistance caseload does not begin to mesh with the current federal incentive structure. Maryland is a good case-in-point.

AFDC C/E ratio is $1.24; National average is $1.31
NAFDC C/E ration is $2.53; National Average is $2.16
AFDC caseload is 102,191; collections are $31.2 ('87)
NAFDC caseload is 81,467; collections are $82.5 ('87)

It is clear that the workload is dramatically shifting to the NAFDC side and yet the incentive structure pretends that AFDC collections are the driving force.

In addition, the highest cost service is establishing paternity and that is usually associated with AFDC cases. These trends cannot be ignored and so the future considerations of Congress should include:

- review of incentive structure as tied to AFDC collections
- "push" for paternity establishment in light of costs vs. incentive structure
- relative importance of offset to Federal and State AFDC costs; is this still the "Super Goal" it once was?

B. Federal Role in Automating

Recommendations:

- continue 90% funding as a "carrot" to states
- review inflexible statewide standards set by FSA director as they act as a disincentive to States to use 90% monies; although statewide is the way to go in Maryland, it is not necessarily for all states given size, organization and caseload.

- help assure strong automation links to AFDC programs and national databases; we cannot continue to push paper around for location functions. Improving interstate location efforts takes a strong federal presence.

### C. Funding Commitments

In previously mentioned two categories, I mentioned two funding strategies in the child support program-incentives and enhanced funding for automation. Otherwise, state child support officials and their local counterparts are looking for stability in funding as they consider expansions needed to meet demand for services, caseload growth, new Federal/State requirements or try to implement management improvements. Clearly in 1984, you meant to set a new course for the Child Support Program and yet funding authorizations were gradually reduced. Neither the Congress nor the States can have it both ways.

### D. Welfare Reform

I recommend that Congress enact the important features in H.R. 1720 and I consider the best ones to be:

- immediate wage withholding
- guidelines as rebuttable presumption
- presumption of paternity - 95% or above is probability
- funding incentive for paternity coupled with strong, uniform, mandatory laws

### E. Investigate new audit procedures issued by FSA 8/31/87

- costly to federal and state governments to implement (Maryland estimates cost about $200,000)
- laughing stock approach to auditing
- embarrassment to legitimate auditors - GAO, OIG, HHS Counsel
- will result in challengeable audit findings at a time when Congress is insisting that FSA be tough on States in areas of program compliance

## II. State Roles

If the Congress can carry on with a strong commitment to the Child Support program, it still remains for the States to fulfill the promise of an effective program. I believe the states will have to move the following agendas:

### A. Training

There is no national strategy for training in the Child Support program although some efforts are delivered by the ABA, the National Center for State Courts and National Institute Child Support Enforcement. It is imperative that States make an investment in training personnel and ongoing training programs, assisted by vendor services. The large numbers of staff involved in the program demand regular orientation, skills training and updates on policy and program changes. All efforts should be tailored to each state's environment.

### B. Incentives to Workers

States should consider incentives to workers who demonstrate skillful and efficient collection techniques thereby collecting above average dollars: Greater emphasis should be given to emulating private sector collection services and rewarding successful workers.

C. Strengthen Contacts

States need to demonstrate a strong monitoring role in their use of contracting for services, whether with another governmental or court entity or the private sector. If the States' rating for program compliance is jeopardized by low performance contractors, then alternative delivery should be considered.

Maryland has been regularly withholding reimbursement to local contractors where it is known that they have ignored or breached state and federal policies and laws or are not delivering all required services.

D. Improved Management

State governments alone can assure high visibility and quality management staffing to oversee their programs. Where they position the program within the scheme of the state governmental organization scheme is probably unimportant as long as they commit resources and attention to child support efforts. States also have to determine how they can best fit the personnel and automation combinations for delivering an effective program.

E. Lessening Court Roles

Congress gave States the tools to determine to what degree courts should be involved in child support delivery and states should be the ones to decide this question, not Federal intervention. Given the growth of the program and federal processing timelines, it is highly probable that courts will continue to be clogged with these cases and will demand relief. This will give state policy makers opportunities to move more toward an administrative-like process.

Acting Chairman Downey. Thank you, Ms. Helton.
Mr. Sanders?

## STATEMENT OF TONY G. SANDERS, PRESIDENT-ELECT, NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION [IV-D COORDINATOR, BATON ROUGE, LA]

Mr. Sanders. Thank you very much, Mr. Chairman and members of the committee, for the opportunity to testify here today. As you are probably aware, the National Child Support Enforcement Association is an advocacy group representing child support professionals in all levels of government and in all 50 States.

It is a pleasure as president-elect of that organization to provide NCSEA's positions to you today on important future child support enforcement issues. In order to save time, you will notice that attachment 1 to my testimony is the official adopted position of NCSEA on all major pending Federal legislation.

In contrast to some of the testimony that you have already heard, mine may be not quite as fiery. However, the philosophical underpinnings from a national perspective are just as important as day to day issues, and those are the things that I wish to address today for members of the committee.

We already know the well-worn statistic—60 percent of divorced fathers do not pay child support. That has been beat over the head today. Two important statistics that I have not heard today that you may have had in past testimony that are very important for the future of child support enforcement are this: Out-of-wedlock births have increased over 370 percent since 1970; we have 500,000 births to unwed teenagers every year. That is one of our largest growing problems in child support enforcement.

Another statistic which I ran across subsequent to the preparation of my testimony today which I want to give to you because I think it also is very important, children ages 6 to 12 today are going to constitute our young work force in the year 2000. Of those children today between ages 6 and 12, half of them live in poverty, which in and of itself is a shame. But the more important statistic, the one that has economic implications for this country is this. That work force by the year 2000 will be one-third the size of that same work force today—smaller numbers, more of them in poverty.

I would like to address what NCSEA sees now as some of the major problems for the next decade. First, NCSEA has long recognized that the keystone to effective child support enforcement in this country, because of the nature of the program, are the commitments made by the Federal Government and the States in partnership. That is where we have stood since 1975.

That became especially clear in 1984 when we took that partnership and Congress evaluated existing effective techniques and said, all right, we are going to continue this partnership under specific requirements, here they are. It was unanimously passed, bipartisan support, and I think state child support directors by and large thought we now have the tools and mechanisms to go back to our states and to do a good job and we have consistency and stability in the program.

NCSEA's position is very clear on this issue. The one thing we perceive, whether it is correct or not, is that States now think that there is an inconsistent assessment of the program by the Federal administration and by Congress. I am not saying that that is a correct statement. I am saying that is States' perception. They think that the rules are going to be changed midstream and that the partnership agreement of 1984 is no longer going to be followed.

If you leave with nothing else that I say today, realize that that perceived problem is preventing States from making sufficient dedication of resources in a large number of areas.

Second, interstate enforcement. You have already heard 30 percent of all parents live across State lines. They are one of our most difficult groups of people to deal with from an enforcement perspective. That has already been alluded to in earlier testimony. Despite the 1984 amendments, despite wage withholding across State lines, despite the adoption by many States of the model Wage Withholding Act, it still remains a problem, especially in the paternity area, especially in the creation-of-order area.

We have gotten a lot better in enforcing orders across State lines, although still much remains to be done. But where we have not significantly improved our interstate process is in creating original orders and in establishing paternity. Under the existing URESA laws, absent parents are able to use procedural and substantive law deficiencies to escape establishment of paternity and the establishment of adequate and fair orders.

The one thing that has not been said today in testimony is that there is an ongoing project that should be supported: the revision of the Uniform Reciprocal Enforcement and Support Act. It has not been revised in a number of years. It has not kept up to date with a lot of procedural and substantive changes and technological advances that would allow testimony be taken across State lines—telephones, video tapes, those types of procedures. The laws do not allow it, therefore States do not go out and innovatively practice these procedures. Some States have changed their laws independently, but there is no mandate on this issue.

Automation of child support enforcement: You have heard this issue spoken ad nauseam. NCSEA firmly believes that is the one feature lacking in so many States that is so essential for every aspect of the program to work, whether it is case management within the State, whether it is interstate enforcement, if you are not fully and effectively automated, your system does not work, and probably will not work.

You can see that NCSEA supports the idea that States be required to implement automated systems, that it not just be an enhanced funding issue. And finally, and this also a very important philosophical concept that you must understand, NCSEA is extremely concerned that we may lose what is the greatest incentive that we have. Child support enforcement professionals want to do a good job. They want to see resources dedicated to the program.

Nobody wants to be on Mr. Stanton's "10 Worst States" list. Nobody wants to handle a thousand cases as their case load. Nobody wants a bad report card if the report card should be adopted. What you find is that leadership in child support committed to excellence in the program either takes existing resources and uses them the most effective way they can or they find ways to change those resources to use them better or they try to secure additional resources.

Good programs work extremely well. The future of child support enforcement by and large is already in place in States with effective administration and leadership. Yes, more has to be done; yes, there needs to be fine tuning of the 1984 amendments, a lot of that has already been done in H.R. 1720, and you can see on our position paper what parts we support.

What we do fear is that in considering changes to the program, we lose the flexibility and the ability to innovate on a State level, on a local level; that instead, the requirements become so strict you lose the ability to have innovative processes come forward.

I have cited some of them in my testimony. For example, a Georgia State program which does what Ann virtually alluded to, and what was alluded to earlier. They are giving Savings Bonds to employees that exceed traditionally set quotas on child support enforcement collections. It is an incentive program, and they had to go through all kinds of regulatory problems just to do that very simple process. And they found that it was extremely cost effective for them to do that.

Nebraska, on its credit reporting program, will certify arrearages in the credit reporting program as low as $25, not mandated. Innovativeness. It is out there.

Wisconsin was cited favorably by a number of people earlier because they already require immediate wage withholding. But what you do not know is that they started that pilot project in January of 1984 and it was not until last year that they absolutely and completely implemented it.

States need time. They need flexibility. It is NCSEA's position that you support giving them reasonable time and flexibility within established guidelines and continue to improve the enforcement process.

That concludes my remarks today and I thank you for the opportunity to appear and testify.

[The statement and attachment of Mr. Sanders follow:]

## STATEMENT OF TONY G. SANDERS, ON BEHALF OF THE NATIONAL CHILD SUPPORT ENFORCEMENT ASSOCIATION

I would like to thank the Chairman and members of the Committee for the opportunity to testify today.

The National Child Support Enforcement Association (NCSEA) is the principal national organization working to increase the nation's awareness of families in need of support enforcement. Dedicated to promoting and protecting the well being of children and their families by improving the efficient and effective enforcement of support, NCSEA is the voice of child support professionals at all levels of government and from all 50 states. Members include judges, court masters, administrative hearing officers, attorneys, representatives of parent advocacy groups, state and local program administrators, family support councils, members of state child support commissions, private corporations and others.

It is a pleasure, as President-Elect of NCSEA, to appear and provide NCSEA's positions on important future Child Support Enforcement (CSE) issues. Attachment One reviews NCSEA's position on major House and Senate proposals submitted this session and is included for your review.

According to Census Bureau statistics sixty percent of all divorced fathers fail to support their children. Add to this the fact that out-of-welock births in the United States have increased 377% since 1970, which includes each year almost 500,000 births to unwed teen-agers and, finally, that the gap between the poor, "the have nots" and those with sufficient resources the "haves", continues to widen, leads to the conclusion that child support enforcement will be necessary for years to come.

I would like to address, what NCSEA sees as some of the major problems of the next decade: They include:

Commitment to program stability.

Interstate enforcement.

The judiciary's future role.

The appropriate federal role concerning visitation.

Automation of Child Support Enforcement.

Identifying innovative programs.

### COMMITMENT TO PROGRAM STABILITY

NCSEA has long recognized that the keystone to an effective and efficient CSE program is consistency in following the commitments made by Congress and the Federal Administration in its partnership with State and Local government, and also the converse commitments. This is especially true in light of the Child Support Enforcement Amendments of 1984, passed unanimously with bipartisan support. Without fear of contradiction, one of the major problems facing CSE is the apprehension that the program is now in a state of constant re-evaluation and is subject to contradictory and conflicting assessment by the Federal administration and Congress. Many of the commitments the State and Local governments have made, and are making, require the long-term dedication of scarce resources. Increasingly, State and local governments are reluctant to commit the necessary resources because of a perceived uncertainty that major and costly revisions will be made, either through programmatic or financial participation changes. Child Support Enforcement should continue to be exempted as an entitlement program for purposes of budget reduction. NCSEA has consistently espoused as policy, that realistic time frames must be used in changing major aspects of the program; this includes federal financial participation. If I impress no other thought on you, please realize that this perception, whether warranted or not, is real and could impede any substantial progress under both current and future law.

## INTERSTATE ENFORCEMENT

It is estimated that as many as 30% of absent parents live across state borders. Despite the 1984 amendments requirements enhancing interstate enforcement, much remains to be done. Even though interstate wage withholding is in effect and some states are now processing interstate cases equally with their own caseload the fact that the parties and oftentimes the evidence is not readily available for a full and fair determination detracts from efficient CSE. This is especially true in the area of paternity determination where absent parents effectively use procedural and evidentiary rules to defeat actions. The overhauling of the Revised Uniform Reciprocal Enforcement of Support Act (RURESA), an ongoing project, is one example of the type of action still needed to enhance interstate enforcement. Automation of CSE should allow the exchange of information not only within a state but also access to other states at a minimal cost. Projects of this type are ongoing but they must receive continued support and enhancement.

## THE JUDICIARY'S FUTURE ROLE IN CSE

The Judiciary's future role in CSE has long been subject to question. While NCSEA has not adopted a formal position, it recognizes the divergent schools of thought. One school of thought is to conserve the limited judicial resources available for CSE by shifting all but the most controversial and complicated cases to quasi-judicial processes (i.e. hearing officers, referees, etc.) The present funding and operational mechanisms in most states have dictated this result. Another school of thought, however, is to establish and possibly fund family or court systems that will deal not only with traditional CSE but also the myriad of issues that deal with the family. The advantages of each are simple to understand. Streamlining the processing of family issues is not difficult once the type of judicial involvement is determined. Constitutional Due Process protections provide the framework for a streamlined system. Substantive due process prevents arbitrary and unreasonable action while procedural due process requires proceedings to be conducted consistently with essential fairness, which includes notice of the proceeding and a fair opportunity to defend. Finally, equal protection requires that all persons similarly situated shall be treated alike. The mandatory use of CSE guidelines and immediate income withholding are supported by NCSEA provided that they are given adequate testing and demonstration periods. Once in place they will, by definition, streamline the judiciary's role as they by in large eliminate discretion.

## THE APPROPRIATE FEDERAL ROLE CONCERNING VISITATION

The federal role in regard to visitation could easily become an issue which could complicate CSE. Undoubtedly, the absent parents right to remain an involved parent with his or her child is a paramount issue in preserving what little remains of a family when parents separate. This becomes even more important when parents remarry and start a new family. Traditionally, in most states, the duty to support one's child and the right to share meaningful time with the child have been considered separate issues. NCSEA supports the study of model programs in this area and realizes that some existing systems work better than others. There must be a realization that the CSE program has been designed to do one job and one job only: collect dollars based on the duty to support. Quite frankly, it boils down to the prioritization of available resources and NCSEA believes that CSE priority must remain unless significant resources are dedicated.

## AUTOMATION OF CHILD SUPPORT ENFORCEMENT

In regards to automation no other feature is so lacking in many states progress and conversely no other single enhancement would be more beneficial. NCSEA supports legislation which requires:

- States to develop statewide automated systems.
- States submission of planning documents within two years of enactment which specify full implementation in no case beyond ten years.
- 90% Federal Financial Participation (FFP) continue through implementation, or ten years, whichever is less.
- States failing to comply with approved planning documents will have FFP reduced to normal match.
- A waiver be granted if the state demonstrates an alternative system which substantiality complies with CSE requirements.

Effective automation is the forerunner of almost every major innovative program.

## IDENTIFYING INNOVATIVE PROGRAMS

One of the greatest achievements of our political and economic system has been the ability of us individually to use our time and talents in solving problems and meeting goals, within available resources. The future of Child Support Enforcement is, in part, already in place in this country. Success stories abound. For example:

1. A Georgia state program awards savings bonds to collection teams that exceed traditionally set collection standards by 25%. Already the pilot is in its second six months with successful results so far.
2. Nebraska has adopted a credit reporting program on delinquencies as small as $25.00 (Their first round of reporting included 7,877 cases with $49.5 million in arrears).
3. Paternity processing in Prince George County, Maryland includes immediate blood testing with trial dates sixteen (16) to twenty-three (23) days after initial appearance (Note they are finding a 30% exclusion rate by blood testing).
4. Wisconsin, beginning in January 1984, piloted an immediate wage withholding program in ten (10) counties with a resulting five (5%) percent increase in AFDC collections and twelve (12%) percent increase in total collections. The program was implemented statewide in July 1987.

The future, in part, consists of individuals, businesses and governmental units that have in an innovative and effective way used or converted available resources or developed ways to effectively and efficiently provide CSE services that meet or exceed our joint expectations. No, I am not saying that their is a perfect program which can be successfully duplicated nationally. I am saying that the different components of CSE can and have been run effectively and efficiently. These programs should be identified; and, like your work on the 1984 amendments, the concepts should be studied for inclusion in future CSE legislation. As part of this program, technology transfer and enhancement of identified programs should be supported and accomplished. Just as important, however, is encouraging the atmosphere where the time and talent of individuals, businesses and governmental units can be used. Let us not be confused in defining the future of CSE and lose sight of the forest because of the trees.

## CONCLUSION

Without question the perception of stability in the continuing Congressional commitment in enhancing CSE in the future is the single most important factor in the programs future development.

The role of interstate enforcement remains one of the weaknesses of the program and revision of RURESA should be accomplished. Innovative programs concerning interstate enforcement should be identified and promoted. Automation and networking among states should become a priority.

The judiciary's future role cannot be defined until policy decisions concerning its most effective role are made.

Visitation issues should be studied and model programs encourgaged but should not become part of a Federally mandated program absent the dedication of significant Federal resources and while the CSE program still lacks resources to complete its already defined goals.

Automation with enhanced funding must become a mandated priority.

Innovative programs which respond to both real and perceived demands on the child support system must be identified and supported. Emphasis should be given to interstate and paternity problems.

ATTACHMENT I to testimony

CHILD SUPPORT ENFORCEMENT IN ACTION

## NCSEA ADOPTS POSITION ON WELFARE REFORM

**By John P. Abbott, Director, Office of Recovery Services,**
**State of Utah and Chairman, NCSEA Intergovernmental Committee**

The Intergovernmental Relations Committee of the National Child Support Enforcement Association (NCSEA) completed its preliminary analysis and developed a position regarding the major welfare reform bills pending in the U.S. Congress (H.R. 1720, H.R. 3200, S.1511). The following position has been ratified by the NCSEA Executive Committee.

### Guidelines

NCSEA generally supports the concept of orders being established pursuant to statewide guidelines. Further, we support the periodic review of guidelines and their use as a rebuttable presumption on the amount of support due. Philosophically we are in general support of a review of orders at periodic (two or three years) intervals; however, this requires full scale computerization which only a few states now have. Until such time as states are able to implement statewide certified computer systems, we cannot support a mandatory review of all cases at any periodic interval. We can support a review (and upgrade if indicated) on Non-AFDC cases as requested each two years provided there is full cooperation from the Non-AFDC applicant and the state agrees that the review is reasonable. We believe the state should have full discretion in AFDC cases but should respond to specific requests as in Non-AFDC cases.

We support demonstration projects in this area and would suggest states with certified systems be the test sites to determine the ultimate workability of this proposal. States involved in these demos should have any costs associated with the demonstration projects exempt from cost/effectiveness calculations for purposes of determining the level of a states incentive calculation.

### States Response to Requests for Child Support Services

Lawmakers need to be aware that states are already confronted with a plethora of statute, regulation, and audit criteria addressing the issue of states responding to requests (or referrals) for child support services. We are willing to consider the notion that more rules are needed but would specifically request that any advisory committee also contain a representative from NCSEA and a representative from the National Council of State Child Support Enforcement Administrators.

We believe that an Advisory Committee should start by assembling all relevant information on each topic (including audit guidelines).

### Paternity

In this area, NCSEA supports:

- Removing paternity costs in calculations of C/E ratios.
- Inputting $100 per month in calculation of incentives.
- Requiring states to take action in paternity cases within 60 days of opening.
- Requiring the use of blood tests in contested cases.
- Establishing rebuttable presumption of paternity in cases with blood tests of 97% probability.
- Requiring the same standard of proof as other standard of state's burden of proof in civil cases.
- Recommending that all states be required to enact long arm statutes for paternity.

We are concerned that the proposed standards in S.1511 may be unrealistic; i.e., in many states 50% or more of the single parents dealing with the IV-D agency refuse either overtly or covertly to disclose who the alleged father may be. For already high performing states, the imposition of a requirement to increase at the rate of 3% per year may be unworkable.

### Mandatory Automatic Tracking and Monitoring

NCSEA supports S.1511 which requires:

- States to develop statewide automated systems.

**NCSEA Position**

- States must submit ADP within two years of enactment and specify full implementation in no case beyond 10 years.
- 90% FFP continues through years specified in ADP or 10 years whichever is less.
- States not in compliance with ADP or exceed time limits will have FFP reduced to normal match.
- ADP may be waived if state demonstrates alternative system substantially complies with CSE requirements.

Interstate

NCSEA believes that cooperation and reciprocity among the states is essential to the program. We believe that S.1511 addresses this problem in a systematic manner and we support this language.

Immediate Income Withholding

NCSEA supports the concept of income withholding and believe this is the most effective method of collection of support payments. Removal of the 30-day overdue requirement would reduce administrative costs and procedures. The stigma of withholding would be reduced because most all payers would be subject to withholding. We do not believe that good cause should be a valid reason for not implementing withholding, although if both parents agree to other methods of payment, income withholding need not be invoked on Non-AFDC cases.

Funding - Administrative Costs

The funding of administrative costs in child support has been on a roller coaster for the past several years. This has lead states to exercise caution in the administration of a program that can be beneficial for the federal and state government as well as children of divorced parents. One of the seldom recognized but significant pitfalls of the IV-D program is the instability of its funding.

On this issue, NCSEA supports the language contained in H.R. 1720. The House bill proposes a reduction in FFP to 66% for states not in compliance with the 84 Amendments within 6 months of enactment; retaining 70% match for states in compliance who also implement immediate withholding; and excluding demonstration project costs in computing incentive payments.

Demonstration Projects

NCSEA supports demonstration projects and recognizes the need to experiment in new areas. Demonstration projects should be exempt from consideration as a program cost.

Access to Internet

We support S.1511 but would also like to have access to NLETS (National Law Enforcement Telecommunications System).

Miscellaneous

We support S.1511 which:

- Requires states to collect social security numbers from both parents at child's birth - need not appear on birth certificate. Effective two years from date of enactment. We would suggest that the social security number appear on the birth certificate where there is a parent that can be legally named. We would also suggest there be provisions for recording social security numbers on marriage certificates and divorce decrees.

Effective Dates

We support a general implementation date of six months after the end of a state's first full regular legislative session following enactment of federal law.

More information about NCSEA's positions may be obtained by contacting John Abbott at (801) 538-4401.

Acting Chairman DOWNEY. Thank you. I want to thank all the panelists.

Jim, let me start with you. In your testimony you made the point about mandatory wage withholding not applying just to IV-D cases but applying across the board. Is Texas capable of doing that? Do you think states have the capacity to do that?

Mr. MATTOX. It is very easy to do it. I do not think there is any problem about it at all. It is a pretty simple process. All you have got to do is mandate that when a case comes through the divorce system there, immediately when any case comes through there, you put in a wage garnishment provision. We are doing it on a voluntary basis now, but it could apply to each and every divorce that goes through there.

Now, there will be a hue and cry from some people who would say, look, there are some people that will pay their child support voluntarily, why are you punishing them too? The fact is, there are so few people that pay their child support on a regular basis, timely, that it is not really punishment. It is just a mechanism for doing it.

It would not be difficult at all. But I think that you have got to have a system that requires some record keeping to make it work. We have that in Texas. I think most states have it or are developing it, but I think it ought to apply to everybody.

Acting Chairman DOWNEY. Ms. Helton mentioned trying to remove some of this activity from the court system. Do you agree with that?

Mr. MATTOX. Yes. I frankly think that we ought not have any of this process go through the court except in the most severe situation. I think your 1984 amendments with the master program and with administrative wage withholding are moving all in that direction and I think that we need to continue that process.

But I think that every state should have a requirement that the moneys that are paid for every single child support payment, whether it comes through IV-D, come through the court or through the registry of the court or through a district clerk's office or through the child support collection program of the State; some place where there is a reasonable accounting mechanism. Without it, you clearly cannot review your cases once very 2 years.

Now, I imagine there is not a one of us that can get this done right now, but your long term effort, if you all want to make the system work rather than just tinkering with it, that is really the way you make it happen.

Acting Chairman DOWNEY. We sometimes get lost literally in the forest of the process and forget that one of our major concerns is that the child actually be helped by the enforcement of these orders and the collection of the money. That somehow gets lost in the process of determining who is doing a good job and who is not doing a good job.

The purpose of the program is not just to reduce—and I think you have alluded to this, Ms. Helton—the AFDC case load. That is good. It is a collateral benefit that is certainly desirable, but the desire is that children not live in poverty when they have parents who are fully capable of taking care of them.

Mr. MATTOX. Mr. Chairman, there is one point that is important to you. In a State like Texas where we have a very low AFDC payment, there are a lot of people that should be getting welfare that are not getting welfare that are just out there and we have to handle them in a non-AFDC way because our payments are so low. And the fact is that we can get a lot of people off, also, too, because you don't have to move it very high up.

One thing that I do think that you could implement that would not be difficult either, and I think the states should implement, we have a criminal procedure, most States, for enforcement of child support collection. But there is a very heavy burden on prosecutors in that you have got to be able to prove that a person did not pay their child support willfully and that they had the capability to pay it. It is a heavy burden to try one of those cases.

A very simple change in the law could have a major impact, and that is to have the States adopt a law that makes it illegal and a criminal penalty to move without leaving your forwarding address for child support collection purposes. All of this tracking that we do through all of this difficult mechanism, we just simply need to make it against the law for you to move and not leave a forwarding address with the court where you are supposed to pay the money and within a certain period of time.

All we have got to do then is come in and show you did not leave the address and then we will deal with all of these other mechanisms. But the burdens that we have in most of our States to prove none-child support make the cases so difficult that we do not try any of them.

Acting Chairman DOWNEY. Also, you recommended that the money collected in this program be retained by the program. Further, you suggest that in some of the cases here we may really have to start saying to the States that they are not really investing their own money in this activity, or as much of it as you think they should. I am sure that is true in the Commonwealth of Massachusetts, but it might be true in others, and certainly is true in others.

These are very excellent points, and when you see our report you will be pleased that your input has made a difference. The reason we had these hearings was that we are concerned. We have expectations that once Congress passes the law, something will happen. This is a real flight of folly.

Mr. MATTOX. Mr. Chairman, I do not think you should diminish, though, the strides that have been made since 1984. We have made some herculean strides forward in the amount of collection because of the implementation of the things that you have done. And you should be extremely pleased with that because we have done it.

Again, the problem is that we still have not moved as quickly as we could. Let me give you one example. You have been talking about computers. We are going to be computerized in Texas very shortly. But the fact is, we have not been able to get computerized quite as fast because they have insisted that we go around and try to find other states where we can adopt their computer program. Well, that is great, but when you have got a State as big as Texas, covering an area like we have got, it is difficult to adopt a program from Massachusetts or someplace else. Sometimes you have to have your own.

We have had some real difficulty getting through the approval process, and we could have already been through it had we not had so much difficulty. So sometimes it is a matter of your putting a little gentle push to move things in the right direction.

Acting Chairman DOWNEY. Mr. Hedgespeth, would you recommend that other states locate their offices of child support enforcement in their revenue departments?

Mr. HEDGESPETH. Well, I think at last count 35 states have conducted an amnesty program which we were not the first state to do, but I think we were the first State to show that it could be part of an effective overall voluntary compliance program in taxes. And I would dare say our success in child support, if it should continue, will cause a number of States to start thinking that maybe a strong collector needs to be the point guard in an overall team approach to child support enforcement.

If I can allude to the point that you raised with the attorney general, in Massachusetts, one of the things we did to comply with the 1984 amendments was that the legislature and the Governor set up a trust fund for child support enforcement, which is comprised of the incentive moneys that the Federal Government gives us for program compliance, any interest in the balance of our accounts, and any interest on penalties that we should levy in collecting a child support obligation.

In effect, what this gave us was, to use budgetary language, the ability to escape fiscal year constraints for the child support program. We now have a pool of money which we can tap which is not subject to appropriation. I think that was a very bold act on the part of our legislature. We review with House and Senate Ways and Means in Massachusetts what we are spending it on. But in effect, your incentive payments now allow Massachusetts to have DOR as the investment banker for child support.

We are able to put funds where they are going to do the most good for the program. And we are dealing with the attorney general's office, probation staff, courts, sheriffs, all the people who have been part of the traditional child support network, with revenue at the point guard position. I have always loved the thought about me being 6 feet 4 inches and 280 pounds as a point guard. But that is exactly what I am now in Massachusetts.

Acting Chairman DOWNEY. It is more of a defensive lineman than a point guard.

I think you have alluded to the advantages to this approach. You have the collection ability there and the bureaucracy in place.

Are there any others that you can think of?

Mr. HEDGESPETH. Automation. We are definitely moving full speed ahead, even prior to having a statewide certified system to use the power of our revenue computers, the power of other State databases, to do extensive matching.

As Ann alluded to, we now have some 600,000 contractors and licensed professionals in Massachusetts on our revenue computers to make sure that they are complying with their tax laws. That is a database we will be going up against to see if those folks also owe post-due child support.

We have extensively used Federal parent locator information which can access the IRS's 1099 data series, everything from dividends that you might have received if you own a substantial amount of stock, coupon clippers, and people who make substantial mortgage interest payments. And we are now matching that list against delinquents in child support, all in AFDC, mind you, and are going to be putting administrative liens and levies on these people in the short space of 2 months.

We are going to be very aggressive and computers are going to enhance that power tremendously for us, and I think that stems directly from our Revenue experience.

Acting Chairman DOWNEY. What about Attorney General Mattox's idea of requiring registration of your address before you leave the state?

Mr. HEDGESPETH. Absolutely.

Acting Chairman DOWNEY. I am wondering, constitutionally, whether or not it might have some defect? You do not think so?

Mr. MATTOX. None at all. You have a requirement. The court in effect orders you to keep your address there and keep it in place so that they can contact you through your payment program and everything. The fact is, if you make it a crime to head off without meeting that obligation, I do not think there would be a constitutional problem to it.

Acting Chairman DOWNEY. Is there a preexisting legal requirement for you in the State of Texas to have your address when you are in the State of Texas?

Mr. MATTOX. It is a preexisting legal requirement to maintain a connection with the court through which you are going to be paying your child support.

Mr. SANDERS. Just a comment. A precursor of that, of course, is that all payments must be made through a court, which all States do not now require.

Mr. MATTOX. That is right. In our State, all must be paid through the court or through the child support office and, frankly, that is the first thing that you need to mandate. I will tell you, I have handled too many cases as a private lawyer where I got into the court and I had stood there hours and hours disputing about whether somebody made payments directly to the child or did not make the payments.

It is just part of the accounting mechanism that you ever get in place will work.

Acting Chairman DOWNEY. What we are going to try in the State of New York, if we pass H.R. 1720, is figure out what the family benefit would be if the support order was in effect, and the State then goes out and does a lot of the collection, and turns it over to the client from the State.

Mr. MATTOX. Mr. Chairman, I think you have got to do that under every single AFDC program in the United States. The AFDC moneys, if that what you are telling me, or the obligation where a person has not paid, is assigned to the State. And so I think that we must do it. The real difference is, what you have got to have is when a person does not pay that court, immediately you have got to respond by dunning that person and saying, you either be in here and have your payment in 10 days or we are going to have you in front of an administrative tribunal.

If you do that, and then you stair step up your penalties from there to the next thing of having you in front of the courts, the next thing having you in jail, I guarantee you you will get the payments and you will increase collections by 50 percent the first year you implement it.

Acting Chairman DOWNEY. Ms. Helton, you are an administrator of this program. What would you suggest to us would be the one most important changes that Congress could make this year to make child support enforcement more effective?

Ms. HELTON. I believe that most of those provisions are embodied in H.R. 1720 and in a great deal, the same respect in S. 1511 on the Senate side. Certainly, immediate withholding is generally viewed as the major centerpiece of all of that legislation and I think the State directors, which I am immediate past president, have supported that as their number one priority.

Acting Chairman DOWNEY. Do other members wish to inquire of the panel? Mr. Donnelly and then Mr. Pease.

Mr. DONNELLY. Ms. Helton, does Maryland have an immediate wage withholding law on the books now?

Ms. HELTON. No, sir, we do not.

Mr. DONNELLY. Why not?

Ms. HELTON. Well, first of all, we have just implemented it in accordance with the Federal law. We met that minimum standard. We asked for it originally. It was clear to us from the chairs of our Judiciary Committee we were not going to get it, and then the bill was compromised accordingly.

Mr. DONNELLY. What is their objection? What is the legislators' objection to it?

Ms. HELTON. The typical one is that it creates an automatic stigma for the employee, whether or not he has had a chance to comply. Obviously, our come back to that is the same as Attorney General Mattox's, well, it is already proven that the evidence shows that 80 percent of them will default.

Mr. DONNELLY. It has been litigated, a court order?

Ms. HELTON. Right. There is reluctance on the part of employer groups to support it, although they have not, in Maryland, been a major factor—a factor, but not a major factor. They really think that the person ought to have a chance to remain current first.

Mr. DONNELLY. But that flies in the face of the statistics that they do not.

Ms. HELTON. I know, and we certainly put those statistics in front of them. Theoretically, I do not believe I can get it past the State legislature unless there is a Federal mandate, and as I said to you when I first sat down here, I still have two bills to pass as of this moment.

Mr. DONNELLY. Are the business groups the main leading opposition?

Ms. HELTON. Not really.

Mr. DONNELLY. The ones that would have to implement it through their accounting or book keeping system?

Ms. HELTON. It is a point of view of our elected officials.

Mr. DONNELLY. What about Louisiana?

Mr. SANDERS. Let me take my NCSEA hat off now. Of course, I am not a State official in Louisiana, so I cannot speak as an official. But I can tell you what is happening in Louisiana. We do have, in complete compliance of the 1984 amendments, wage withholding.

Mr. DONNELLY. Well, just not in Louisiana; all of those States in your organization that are not as progressive as Massachusetts and Texas?

Mr. SANDERS. The vast bulk of them have complied with the 1984 amendments.

Mr. DONNELLY. I am not talking about the 1984 amendments. I am talking about immediate wage withholding.

Ms. HELTON. I think there are only two or three.

Mr. SANDERS. There are only two or three. Wisconsin is one; Texas, I believe is one.

Mr. DONNELLY. And Massachusetts. But what I am talking about is the other 47. Why have they not taken the initiative to do it on their own?

Mr. SANDERS. By and large most of the child support professionals did take the initiative when they submitted their legislation.

Ms. HELTON. Yes.

Mr. SANDERS. And by and large most of them got eliminated. We did in Louisiana. We took it and wanted to make it immediate, because we did not even want to go through the 30-day delay process, either. We did not think it was fair.

Mr. DONNELLY. Jim, what is the objection? I cannot fathom what the objection is.

Mr. MATTOX. It is one of those kind of things that, just as we knew as Members of Congress that you have some gut reaction that somebody back home is going to object to it and you figure it is your obligation to object. But the one thing I want to point out to you is that in Texas we have a provision that says that every single divorce will have a wage garnishment in it. But that wage garnishment does not kick in until the person is 30 days behind and the court is again notified.

What I have recommended to you is to have a provision that says that every single divorce has a wage garnishment provision that goes into effect on the very first payment to the court, immediately, no 30-day delinquency, no nothing. And your bill provides for that when you got through the IV-D program. But it does not provide for that for all divorces, and the IV-D program, by necessity, you are going to mean that there is already going to be a delinquency before you ever get to that program, as a practical matter.

Mr. DONNELLY. Well, I just do not see that a constituency——

Mr. MATTOX. There is no reason to object.

Mr. DONNELLY. Yes. I do not see a constituency out there advocating that the taxpayers pay for the children of delinquent fathers.

Mr. MATTOX. There isn't.

Acting Chairman DOWNEY. Would the gentlemen yield?

Mr. DONNELLY. I would be happy to yield.

Acting Chairman DOWNEY. On Saturday I was visited by the Father's Rights League on Long Island, and let me suggest that there is a constituency out there and their argument to me was look, if we are automatically withheld, then it could affect our credit ratings and we could be stigmatized. But the fact is, if all of the good and the bad are withheld, then there is no stigma.

They made the further point to me, which I did not find terribly persuasive, that there are problems with visitation rights. This sometimes induces fathers to be less than timely in their payments, and these are questions that are sensitive matters that I should understand. I told them that I did.

So there are plenty of them. I suspect that it is probably directly proportional to the number of divorced State legislators. [Laughter.]

Mr. MATTOX. We did not have any trouble passing that legislation in Texas, though, that we passed, and I do not think that you will have trouble passing it if you mandate it.

Mr. DONNELLY. Let me just say as a followup, we are not talking about visitation rights. They would waste their time coming to see me on this issue.

Acting Chairman DOWNEY. No, but they make the point, if you would yield, that there are lots of times when one spouse is just not allowing visitation rights——

Mr. DONNELLY. And they want to hold the money hostage?

Acting Chairman DOWNEY [continuing]. That another spouse is entitled to, and the withholding of payment is somehow—I do not know whether it is a bargaining tool or not, but——

Mr. DONNELLY. Grady, I think your excellent testimony today hopefully has gone a long way to dispel the myth that the Commonwealth of Massachusetts is governed and run by a bunch of knee-jerk liberals who drink white wine and eat brie cheese and read New York Times editorials.

Acting Chairman DOWNEY. They eat quiche too, don't they? [Laughter.]

Mr. DONNELLY. I even noticed a couple of your statements, and I even think the distinguished attorney general of Texas winced somewhat in regards to FBI involvement and mandatory sentencing.

Mr. HEDGESPETH. I'm sure he would.

Mr. DONNELLY. So I hope that, after some of those fictitious TV commercials that are taking place across the South, your testimony will rectify some of that damage maybe that will be done a week from yesterday.

Let me address the question of which agency ought to be primarily involved in child support enforcement. We made the decision in the Commonwealth to go with the revenue collecting agency, the collectors. In most States, it is the social service agency. This is not a social service need, this is a collection need.

I mean, ought not we move to a uniform basis, whether it be through the attorney general's office or the DOR in Massachusetts, and take the responsibility of the collection agency and turn back those cases that are in fact social service cases, because you are not going to collect from everybody. Some people have nothing to collect and they have a myriad of problems.

Would you respond to that? And anybody else that wants to jump in.

Mr. HEDGESPETH. Sure. If I could just mention an aside, I spent a lot of time with the Governor prior to this function coming over to us to get his feelings on it, and I think he may even be to the right of me in his views on this. So he definitely feels that fathers ought to pay and that we ought to have very, very strong and predictable sanctions to ensure that, which is why it came to a revenue agency.

I might point out an anecdote that someone mentioned to me, in fact, my general counsel, who was a major advocate for the legislation, a major national advocate on child support issues, and I think has been delighted by revenue's approach to child support collection as someone who has been interested in the issue as an attorney and as an advocate.

She pointed out the fact to me, which I did not realize, being a revenue administrator for 5 years, that people in DOR have an appreciation for every dollar that comes into the Commonwealth. It is very hard earned. Either a taxpayer earned that money and feels like he is making his contribution voluntarily or begrudgingly to the Federal Government, or it is we as collectors of that money who appreciate what it takes to pay, especially what it takes to pay voluntarily.

And even more so what it takes when someone does not pay voluntarily and we have to go out there and get the money. I think that gives us a natural appreciation for the plight of fathers who have to make this very basic commitment, ongoing commitment, maybe 21, 25-year commitment if they have got multiple children, to continue to support their kids.

So the fact that we are tough collectors, I think, ought to be leavened by the fact that we also have a deep appreciation for what makes Government work and the fulcrum of that is a fair, firm and honest taxing authority.

So I think there may have been more natural synergy in putting child support in the tax agency than we ever thought possible. That is certainly what we are seeing now and I have a tremendous number of friends in the human services world, both of my parents were social workers, but I think that there is a general lack of appreciation of where that money comes from by and large in the human services world.

I think we may be a better agency both to collect as well as deal with the service side of child support enforcement. That is not to say that other agencies and other States cannot do an equally good job of being a collector, being a service bureau, and ultimately being a multimillion dollar financial concern, because that is what child support has become. And with half of kids being expected to be in a single parent family at some point in their lives, child support has got to become a way of life and we have got to invest in the systems to make it a way of life. And that is what has happened in Massachusetts with the department of revenue taking control.

Mr. DONNELLY. Jim?

Mr. MATTOX. I think that it was the difference between daylight and dark when we took the problem over in the attorney general's office. It changed from being a social welfare program to being a law enforcement program. I think it has had a major impact. It is the difference in receiving a letter from the department of human services saying we want you to do something versus a letter from the attorney general saying, you either do it or we will have you in court.

I think because child support collections still evolve around the courthouse to some extent, I think the attorney general's offices in the country are by and large good vehicles to use in this process. I think that many of our offices, though, are not set up in such a way as to be revenue collecting agencies as well as the difference tax offices would be.

In some way or another you really need the aggressiveness of having that tax collection capability plus the aggressiveness of understanding and knowing the courthouse that comes in the attorney general's office. So if I had my option, I would say that we ought to opt someway or another to move these programs out of welfare situations into more revenue generating capability.

But, again, I would like to see us move it to where in fact the state is dunning the participants in the process, but it will take a while to get there.

Mr. DONNELLY. With the latitude of the chairman, I think there would be some disagreement from your two other colleagues who are trying to take your club away from you.

Ms. HELTON. Yes. I am not prepared to say that there is a natural berth for the child support program because I think an aggressive child support program is a point of view, Congressman Donnelly.

If a Governor and a commissioner or a revenue head wants to conduct an aggressive child support program and give it the tools it needs, it will do so. We cannot ignore our statutory link to the AFDC program, although I have asked you to look at that again in terms of the incentive structure, without being duplicitous about that.

It is there. It will probably be there forever. I employ no social workers in the Maryland child support enforcement program.

Mr. DONNELLY. What are their backgrounds?

Ms. HELTON. They are classifications that are unique to the child support program. They have some corollary to revenue and investigative types in other classifications. But they are support enforcement agents, absent parent locators, and we use some general clerical. I am an administrator. I have no background in social work whatsoever.

However, my boss is an MSW, the commissioner of the department and a member or the Governor's cabinet. I have never seen there be any dichotomy in her, if you will, nurturing social work attitude for the services side of the program as opposed to supporting the child support program.

There is sort of an innate toughness that I see come out in her whenever we want to talk about that. And lastly, I think the thing you need to remember is, I say we offer five services: Establishment, location, paternity, collections and enforcement. Collections is one of them.

Mr. SANDERS. NCSEA's position, as I alluded to earlier, would be one of flexibility because, in echoing Ann's comments, you could actually put child support enforcement in your Department of Natural Resources on a state level, as long as you had a dedicated person that would spend the time, resources and energy to do it.

It just happens that in his particular district, the Governor is very committed. Here, the attorney general is extremely committed. In other places it may be the State umbrella agency that does all the social programs and can be very committed. The problem that you run into is what happens when it is in an umbrella agency that is very large and you do not get commitment; what do you do?

So, I do not have the answer to that dilemma, but NCSEA's position is that flexibility be maintained rather than dictated, because you can actually lose some good programs that are being run in the State's central agency.

Mr. DONNELLY. Thank you.

Acting Chairman DOWNEY. Mr. Pease?

Mr. PEASE. Thank you, Mr. Chairman.

I would like to say, I think the testimony of this panel has been extraordinarily helpful. It is very valuable for us to hear from people who are really out there doing the job and we would like to give you some additional tools. We would like to do some things that are productive and not counterproductive.

We are particularly pleased to welcome Jim Mattox, a former member of Congress and a member of my class. Jim, I really support your idea of automatic dunning. It seems to me if I were divorced and had a couple of kids and had a child enforcement payment and was a little short on money, I would, instead of mailing my check on the first of the month I would mail it on the fifth.

Mr. MATTOX. You would spend it on your car is what you would do. [Laughter.]

Mr. PEASE. Well, no. I am more cautious. I would do it gradually. I would mail it on the fifth. Then, if nothing happened, the next month I would mail it on the 10th, and then the next month I would mail it on the 15th, and then I would not mail it at all. And if there was no response at each one of those points, I would be through paying right there.

It seems to me that if people know that after 10 days they are going to get a dunning notice, as you say, the increase in collections far exceeds what you really would expect it to be.

I want to talk to you for a minute, Jim, about your suggestion that none of the money States earn from child support enforcement could be transferred to other programs. I can understand your, I guess, frustration, that you are still short of resources for collection, or at least you see a good use for more resources, and yet the legislature is reallocating that money.

It seems to me that for us to make that inflexible would mean that there are some occasions where there is going to be more money piling up than really could be used for enforcement. And beyond that, it would serve to remove one incentive for the States to go into it. If they save a bunch of money on child support enforcement and they can only use it for more child support enforcement, that requires them to believe strongly in child support enforcement.

And if they think that the money they save, or at least part of it, can be used in other areas of State government to beef up this or beef up that, it seems to me the legislature has more incentive to go along.

Would you comment?

Mr. MATTOX. Well, what I would say is that I think we need to have a program very similar to what has happened in Massachusetts and that is, you, in effect, treat the money in a trust fund way. All the money that comes in, you handle it.

Now, if you can shoe me one single program that comes close to being adequately funded in the United States, well I might buy a part of your argument. But the fact is there is not a program in the entire United States that is adequately funded. That is the truth of the matter.

Now, if you want to set these moneys up and have them used for an assortment of purposes, pirating them away to use them for parks and wildlife services or whatever else, that is your business.

But I would assume that it is the objective of this committee to get on about doing the real child support enforcement in this country. That is not going to happen. And I suggest that you put in this kind of provision and then some time in the future if you find that there are far more revenues that are available than what we need, well then you can change it.

You may recall that when we came into Congress, at that time it was the new federalism approach that they were talking about? That is, in effect, you cut all the funds by about 50 percent and the 50 percent that is left, you can spend it any way you want to with no strings attached?

Well, that proved to be a real fallacy of logic because it did not do anything that the Congress wanted done except waste the money. And I would say to you that that is exactly what the fallacy of logic that is taking place now is, that we are, in some of the States, taking the money and using it for other kinds of programs.

Just to give you one example, there is more money spent in Los Angeles County to collect child support than there is in the entire State of Texas. There is more money spent in Massachusetts to collect child support than the entire State of Texas.

Each one of these States are spending more money than our State is spending. Now, if we ever get our moneys up to the point where we do some good that is fine. If somebody wants to penalize our legislature for not doing something, if it helps the kids, I am all for it.

Mr. PEASE. What about the incentive angle? Do you think there is any validity to that?

Mr. MATTOX. The program is its own incentive in that you cannot get the money to operate your program without more collections. The incentive, also, is to take people off of welfare. When they come off welfare, there is not spending for Medicaid-type expenditures, housing expenditures, food stamp-type expenditures.

The program has a natural cap on it, too, the way you have got the thing set up right now. And the natural cap in Texas is that we cannot get more money that what comes off of 117,000 AFDC cases, so there is a natural cap.

If we earn every single dime, collecting off of every single one of those 117,000 cases, we still will not have enough money to operate a program which has 200,000 non-AFDC cases.

Let me just give you one other perspective. In Texas, we have got 325,000 cases in our office. We estimate that there are actually 900,000 out there—900,000 cases. So it makes no difference, no matter how much money you earn off of your incentive program, you are never going to be able to handle that 900,000 cases. And that does not count what you send to us from outside the State. It is that bad a problem.

Mr. **Pease**. Do any other panelists have any other viewpoint on the incentive angle?

Ms. **Helton**. None other than what was expressed.

Mr. **Pease**. Okay. I would like to talk for a minute about interstate communication and cooperation. I hear a lot of stories from my own district about people who move out of State and it compounds the difficulty enormously trying to collect from other States.

We heard earlier, I think, from the Federal director that if you send a case out of State, it may disappear altogether and you never get any response at all. Is that a common occurrence?

Mr. **Mattox**. It is a common occurrence.

Ms. **Helton**. Absolutely.

Mr. **Mattox**. But again, if I might answer for the panel, that is a function, also, of a number of factors. Most of us do not have enough resources to work the relatively easy cases where we know where the guy is and we are operating on an incentive approach.

The problem is, when you send a case out of State, we get no incentive payment whatsoever for collecting that money. We do not get that incentive payment. That money goes back to the State that we were collecting for. So you do not have any kind of incentive.

The fact is, if we got a 6-percent incentive on the money coming in, we would feel much better about the approach, but we do not get that.

Ms. **Helton**. I would like to correct one thing. It is my understanding that we are given credit for collection made by another State and in fact we both get credit for it. Now, it has to be properly reported and accounted for.

Mr. **Mattox**. Let me give you the answer to that, though. In Texas, where we are collecting two-thirds of our money off of non-AFDC cases, we are capped at how much money we get in based on the amount of money we can get from AFDC cases. So even if we get credit for collecting a non-AFDC case from another State, it is my understanding of our program that we do not get an incentive based on that.

Ms. **Helton**. That may be true.

Mr. **Mattox**. So it does not help us any because you have got us capped off. Now, again, if you want to keep the cap where it is, that is fine. But you need to give us incentive for that collection and it would be helpful. But it does fall off the edge of the world. We do not have that kind of benefit, and I wish we had a better one.

Mr. **Hedgespeth**. Before I have all the IV-D directors after me, in Massachusetts, I want to make it very clear, we took over control of the IV-D program, but everyone who has been working child support for a number of years, really, even predating the 1975 amendments, is still involved in child support. And we are trying to make that effort pull together instead of be disjointed, and I think you are seeing a tremendous amount of interstate cooperation within certain regions, between certain States, to try and make it work more effectively.

Certainly, in New England we enjoy the proximity or geography and six States border Massachusetts and we are constantly in contact with them trying to process things in our region. Seventy-five percent of our cases are right in New England. And other efforts in the Midwest and the Southern States are trying to replicate that kind of thing. But the States can only go so far.

It is very clear that the cost of prosecuting an interstate case simply makes the current reimbursement and incentive system not support a lot of States making an effort in that area.

We have just begun a process of extraditions. Extraditions have never ever been done before in Massachusetts, and I am happy to say that one of the first we did with Texas. I think there is a growing understanding that you have got to be willing to go the extra mile in the interstate area in order to make your case. I actually think that one of the areas of interstate cooperation that are going to happen is more of this extradition movement back and forth between States. But it is very costly, complicated and time-consuming for a State to do that.

Mr. **Pease**. HHS collects all kinds of statistics. I got a report on Ohio that shows all sorts of measures of the efficiency of the program in Ohio.

Is there any current report from HHS on the efficiency of States in responding to requests from other States? Do you get ranked on that?

Ms. **Helton**. I am not aware of that as, if you will, a page in the annual report to Congress, in terms of efficiency. There is case load activity and collections that get broken out. But in terms of efficiency, no.

I will give you an example of one, a part of a study that was conducted for the State of Maryland. We wanted to improve our interstate case activity and we did not want to point to other States' lack of performance until we could clearly say that ours was superior, so we did an internal management piece with consultants.

We asked how we did in comparison to the five highest States that we initiate cases to and how we do on the five highest States we respond to. And using the category of establishment, we established in 67 percent of the cases to States to whom we responded. The States that we sent most of our cases to, they only established at the rate of 37 percent. That is not a CE ratio.

But what that said to us is, first of all, there are always extenuating circumstances for not establishing, such as unable to serve, unable to locate. But what it said to us was that we did fairly well in that category.

But then when we got into the other categories, I have got to tell you, we all looked bad. It was a disgrace, and it continues to be a disgrace. And, you know, no matter mow much money you put in this, establishing paternity on an interstate basis is a requirement. It is a requirement today.

Handling an interstate case is a requirement. You do not get to say you have quotas. You do not get to say, I cannot get to it. You have got to do it.

Mr. **Pease**. It is a requirement under the law, you are saying?

Ms. HELTON. Yes, sir.

Mr. SANDERS. I have a comment. I will take my NCSEA hat off. I got a call from an assistant district attorney in Plaquemine's Parish, La., right before I came to Washington to testify, a URESA paternity case from the State of New York, if my memory serves me correctly.

The facts are very simple. The testimony of the petitioner said, I had relations with more than one man at the probably time of conception. One of them was the presumed legal father, as a matter of fact. However, they wanted us to establish paternity who this lady alleged is the natural father.

She said, I do not know what to do with the case. The State of Louisiana does not have a mandatory presumption statute on blood testing. They have a very efficient statute on getting the results in. You do not even have to have the expert to testify. You can get the report in, but our legislature stripped out our presumption requirement. We first introduced it in 1985.

Additionally, they impose an additional requirement which says the blood test, even if it is taken, and the testimony of the woman alone is not sufficient proof to prove paternity. So our legislature has given us a burden of proof which is way above what a lot of other State laws are. And her question to me is, what will I do with the case? I do not even have money in my budget to do blood tests for an interstate case. I have enough problems with my instate cases.

And the prior Federal regulations required that the responding State be responsible for that cost. The new regulations now require the initiating State to be responsible for that cost, which is a step forward.

She had already done what I basically recommended. If the State of New York will agree to pay for the test, take the test any way. He may fold up his cards and go home. She said, what if I have to litigate? I said, you will probably lose the case, but at least you have to litigate it.

So, those are some very real problems that you see in the interstate paternity determinations, specifically.

Mr. MATTOX. There are problems. There are also some of our States that are substantially disproportionately affected, also, by the level of movement. For instance, in Texas we have 8.5 percent of all the incoming URESA cases in Texas. Most States receive less than 2 percent of the national level, and we initiate less than 3 percent from Texas, to just give you an example.

But we look terrible. Every State around here looks terrible from the perspective of really getting accomplished what we need to accomplish.

Mr. PEASE. Well, if we are thinking and talking generally about a national computerization through HHS, does it make any sense at all if you are going to ask for help from California, that that gets registered with HHS so that if California does not respond, it shows up on HHS's records that California did not respond in 95 percent of the cases or whatever?

Mr. MATTOX. If I might respond again, I think that having additional computer capability is a worthwhile thing. But the truth of the matter is, a great percentage of these cases, we can find the person, we know where they are. It is just a matter of having the capability and the monies to handle it. Whether or not you can pay for the blood test, we have one New York case, for instance, we took to court 23 times before we ever finally got it there, before we ever got the thing resolved.

In particular, you take a judge, if he is an elected judge, he is sitting up there on a case where he has got a constituent in front of him, somebody else off down in Texas is complaining. It is a difficult process. I visited with one lady who was here this morning who had already tried to get a private attorney and had her husband in court several times and could not get money from that individual.

And now we do not know exactly where he is. We might be able to locate him. But the difficulty is whether you can work on that 1 or whether you work on the other 10 cases where you happen to know where the guy is, if you have got the resources to do it. It is just a function of the morass that we are in.

Mr. PEASE. Mr. Chairman, one last question. I think it was Mr. Hedgespeth who suggested that we establish a new category of ex-AFDC recipients. Do I understand enforcement efforts stop when families leave AFDC, either because of a job or because the kids reach 18?

Ms. HELTON. They are not stopped.

Mr. HEDGESPETH. No, not at all. But the way the incentives are structured currently, I know cases where my workers in essence kept someone on welfare or did not proceed to go with that modification that may have gotten them off welfare because then the collections would move from the AFDC category to the non-AFDC category.

Now, it happened to be that when they used to be under the department of public welfare, they only got credit for the AFDC side. But the way the incentives are structured by what Attorney General Mattox said, the AFDC collection base really drives all of the rest of the incentives. And I am suggesting to you that if one of the important goals of the program is to help people off welfare via child support, we establish this category called ex-AFDC.

It is a way of segregating the non-AFDC population to those who are most at risk and, contrarily, most benefit by ongoing support enforcement. If anything, those are the cases we ought to do first. And tilting the existing incentive money towards that I think would go a long ways towards providing a lot of States with the appropriate incentives for child support.

Mr. PEASE. Thank you.

Acting Chairman DOWNEY. I want to thank the panel. You have been tremendously helpful.

We have three other panels that we are going to do today. I am going to ask the panelists if they can summarize their remarks. I know they have been very patient.

First I would like to hear from the Honorable William Jones, district court judge of the 26th Judicial District, the State of North Carolina; and Robert T. Williams, the president of Policy Studies, Inc.

Gentlemen, thank you for being so patient. We have gone a little longer than we anticipated because of the testimony.

Your testimonies will be placed in the record in their entirety and if you could summarize your statements, that would be most helpful.

## STATEMENT OF HON. WILLIAM G. JONES, DISTRICT COURT JUDGE, 26TH JUDICIAL DISTRICT, STATE OF NORTH CAROLINA

Judge JONES. I am a trial judge in North Carolina. I hear child support cases and a wide variety of other cases as well and the suggestions in my written testimony are based on that experience and are presented from that perspective.

It is easy for me to summarize because most of my suggestions have already been covered by the testimony of previous witnesses. But I have one point that I would like to emphasize and that relates to guidelines.

The point is that in my judgment, it is not enough to make guidelines presumptive. I think that it would be desirable for Congress to go further than that because it seems to me that the more cases guidelines resolve, the better and so it is important that the guidelines be sophisticated enough to deal effectively with common variables that arise in child support cases.

I am talking about child care costs, health insurance, and uninsured medical expenses and dental expenses and issues like what to do about spousal support and whether guidelines work in situations where both parties have low or high incomes or widely divergent incomes and what to do regarding the range of age of children and the different costs of providing for children of different ages, and what about situations where custody is shared or where the obligor has multiple obligations.

It seems to me that those are questions that need to be addressed by guidelines and that Congress should give some direction to the States in that regard. I also think that States should be expected to set forth explicitly what showing would be necessary to rebut presumption rather than to include loose language that puts that in the discretion of the judge or the hearing officer.

I say these things because in cases that are not resolved by the application of guidelines, then each judge will continue to apply his or her own personal standard rather than all using the same standard to resolve child support questions and the many benefits of guidelines will be diminished.

Beyond that, I would like to emphasize something that other people have said and that I did not perhaps make clear in my written testimony, and that is that I think that congressional required improvements in the child support arena should be made applicable to all child support cases, not just IV–D cases, whether they are AFDC or non-AFDC, because there is still a large body of cases out there and large numbers of obligees and children who need support and who depend on a system that has nothing to do with the IV–D system, and it is a system that does not work and that does not enjoy the benefits of many of the 1984 amendments and some of the proposed amendments in H.R. 1720.

Now, when I arrived here this morning, I learned that there had been some discussion at the hearings last week about the inadequacy of court performance in the area of child support. While I am not here as an apologist for judges or courts, I have some thoughts about why that is. And in view of the lateness of the hour and the time we have all been here, I will not offer those unless I am invited to.

Acting Chairman DOWNEY. Why don't you summarize them—if you could summarize a couple of them, I think myself and Mrs. Kennelly would like to hear them.

Judge JONES. Well, I think that a large part of the problem has to do with the way courts are organized. We categorize cases in terms of, this is a custody case; this is a delinquency case; this is a child support case. If it is a child support case, it is as if that case exists in a vacuum unrelated to any other problems or legal issues that that family may have.

In addition to that, there are so many different, as you already know from your knowledge of the system and the testimony you have heard, there are so many different tracks; the URESAs and the private actions and the IV-D actions, whether AFDC or non-AFDC. Some states still have criminal non-support proceedings, plus the enforcement modification proceedings.

Not only are there a lot of tracks, there are a lot of players. In our State the district attorney is involved, and in some cases the public defender as well as the clerks, the judges and the sheriff's department for purposes of service, as well as the private bar. And there are different players involved depending on what kind of case it is and there are different results obtained depending on what kind of case it is and the skill with which those various players are able to accomplish the desired results of establishing and enforcing an order.

Beyond that, there is nobody in charge of the system, at least not the system in our state, and I think that is true in many other places as well; perhaps not in Texas or Maryland or Massachusetts. But certainly that is a problem elsewhere.

Child support involves not only all three branches of government, but it involves them at all three levels of government, the local, State and Federal levels. I cannot think of another problem that involves as many different players or as many different systems at as many different levels of government.

Then, to top that off, judges rotate, so that a family will come to court one day for one portion of a child support case or a domestic case and come back 2 weeks later for another portion of it and see a different judge. That is particularly inappropriate in family cases because they tend to come back again and again and again, child support cases in particular, either on modification or enforcement motions.

Those are some of the problems. Whether Congress can or would do anything to resolve those problems, it is not something I am prepared to suggest. But I think it perhaps helps to understand why courts do not do as good a job as we all would like to see them do to have that perspective on the way they operate, the limitations under which they operate.

One of the things we have done to alleviate the problem in our system is to go to an individual calendaring system so that cases, once the system is operational, one the case is filed, it will be assigned to a judge and that judge is responsible for the disposition of that case and any subsequent modification or enforcement proceedings. We hope that that will build in the kind of responsibility that judges need to have to see these cases through to conclusion and to collect the support that obligees are entitled to.

Another thing is that courts do not prioritize. I was very frustrated last week because I spent a day and a half trying an automobile accident case that involved a soft tissue injury and dents on the fenders of one of the vehicles to a jury. It took more time and involved less money than it would have taken to resolve many more far more serious issues, including a number of child support cases.

But our court system, and I would imagine most other court systems, make no distinction between cases. You hear what is on your plate for that day or that week and everything else waits in the wings until you are finished.

Acting Chairman DOWNEY. Do you have a family court system in North Carolina?

Judge JONES. No, regrettably we do not. The Congresswoman from New Jersey has the benefit of a family court system, which may perhaps explain why the court system there does a good job collecting support.

I think that despite the track record of courts, that there have been improvements. I think there is still a role for courts in the child support process. I do not think it would be wise to write them off. Courts are still going to be responsible for the disposition of private cases which constitute a substantial percentage, as we have already heard this morning, of the total volume of cases and the total volume of money involved in nonsupport problems.

Courts are uniquely qualified to resolve cases where there are conflicts. Courts are going to have to be involved in remedies that involve—well, in some of the enforcement remedies. And it seems to me that a part of the problem now is that child support is isolated from the mainstream of other court proceedings and social services and I would be concerned about further isolating the program.

It seems to me that nonsupport is an integral part of the kinds of problems I see in the rest of my jurisdiction every day. Just yesterday I had a lady before me in a probation revocation hearing. She had been convicted of defrauding the State by receiving unemployment benefits that she was not entitled to and she had been placed on probation and required to make restitution in the amount of $2,000. She paid $20 every 2 years and the probation officer had her back before me wanting me to revoke probation and put her in jail.

I asked her when she could pay the money or how she was going to pay it and she breaks into tears because she has two children. She had been to the child support agency and neither of the fathers of those children was contributing anything to the support and the agency had not been able to help her. So if I put here in jail—I did not, as it turns out—but if I do, her children end up in foster care, and that is another expense to the State.

I think judges and social workers and probation officers and educators need to be more a part of the child support system rather than less so that problems like that problem that raised those issues can alert them to the child support needs and to the paternity needs of their clients.

I have one other thing to say and then I will quit. I spend a lot of time in juvenile court and paternity and nonsupport are routinely overlooked in child abuse and neglect cases and delinquency cases. That is true despite the fact that probably about two-thirds of the cases I hear in those categories involve children who come from families where either one or both parents are absent and the children are not receiving any support. In many instances, paternity has not been established.

Yet, the assumption is that those issues are somebody else's problem that will be dealt with on some other day in some other proceeding. So it seems to me that there is a role for courts and that we need to find ways to get courts more involved rather than less involved in the process.

Thank you.

[The statement of Judge Jones and an attachment follow:]

## Statement of Hon. William G. Jones, District Court Judge, 26th Judicial District, State of North Carolina

The following suggestions for additional legislation would better enable court and child support programs to serve children and their parents.

### VISITATION

Child support and visitation should not be legally interdependent. Children have a right to support and they have a right to a relationship with the non-custodial parent. To deny visitation because of nonpayment of support, or to authorize withholding support because of a refusal to allow visitation, can each be effective sanctions, but either approach sacrifices at least one and often both of those rights of the child to satisfy a need of one of the adults.

Establishing and enforcing visitation rights is major problem for non-custodial parents and for their children. It is also a problem that often impedes the payment of support because of the perception that if visitation is denied or limited, then support need not be paid. A clear statement from Congress that support and visitation are separate rights of children that cannot be made interdependent would be useful. Congress should also assist the states as proposed in H.R. 1720 and S.1511, in developing procedures for resolving visitation issues. Such procedures should allow prompt access, first to mediation and ultimately, if that fails, to the courts. Some direction should be given in those instances where abuse is alleged by either parent in opposition to a claim for custody or visitation, regarding referral to the Child Protection Services Agency and the subsequent interplay between any proceeding instituted by that agency and the custody or visitation case. Some provision should also be made for effective advocacy for each of the parents or for the child(ren) or both, and the responsibility of the Agency to defend custody and visitation claims filed in response to support modification or enforcement proceedings should be specified.

The interrelationships between visitation and support are compounded in interstate cases because two jurisdictions and frequently great distances are involved.

It's particularly difficult to say to a URESA obligor who complains that (s)he is denied visitation, that the only remedy (except in those few cases where the receiving court would have jurisdiction over custody and visitation as well as support) is to pursue that complaint in the court where the child resides.

Any rewrite of URESA should include some mechanism and the authority to resolve interstate visitation problems. The initiating state could, e.g., hold hearings on visitation issues properly raised in the receiving state, or the two courts could be compelled to communicate and determine which of them would address the issue, using criteria similar to that set forth in the Uniform Child Custody Jurisdiction Act. Consideration should be given to the form in which evidence from the parent not present at the hearing could be received, to transportation costs associated with visitation, to conference call mediation, to enforcement procedures, and to advocacy for the parents and child(ren).

Support is the obligation of the non-custodial parent and affording visitation is the obligation of the custodial parent. If the State undertakes to enforce the support obligation, it has a concomitant responsibility to enforce the visitation obligation.

### GUIDELINES

Guidelines establishing child support result in greater consistency and fairness, as between the parties in any given case, and as between cases. They encourage respect for courts and compliance. Their predictability promotes settlement, which saves courts time and saves the parties and their children the trauma and expense of litigation. And most importantly, using guidelines results in increased support for children.

The many benefits of guidelines cannot be fully realized unless they are presumptive and so I applaud the decision of the House in H.R. 1720 to mandate presumptive guidelines. In my view, however, it would be desirable to go still further and to give the states some direction regarding the issues those guidelines should address. How will child care costs be taken into account, health insurance, uninsured medical expenses, and dental expenses? How should spousal support be considered? Do the guidelines work in situations where both parties have low or high incomes, or widely divergent incomes? What about the age of the child(ren), and situations where custody is shared or where the obligor has multiple obligations, either to children living with him and with the obligee or to more than one obligee? The question of whether birth order or date of court action or court order should determine support priority in such cases, or whether all children of an obligor should be treated equally is another issue that might be required to be addressed by guidelines. States should also be expected to set forth explicitly what showing would be necessary to rebut the presumptive guideline amount.

In cases that are not resolved by application of the guidelines, each judge will continue to apply his or her own personal standard and the many benefits of guidelines will be diminished.

It would avoid potential confusion and litigation to require that legislation enacting guidelines as a rebuttable presumption specify that statutory or case law setting forth a different standard for establishing child support would no longer be controlling.

## PERIODIC UPDATING

Review of orders over two years old would necessitate hearing 159,000 cases in North Carolina. That would be an overwhelming task and we respectfully request that due regard be given to the burden that such a requirement would impose on us and other state courts. The Conference of State Court Administrators and the Conference of Chief Justices have both expressed their opposition to mandatory review of all child support cases.

It's generally recognized however that outdated child support orders frequently require insufficient support. It also often happens that obligors suffer a loss of employment or a reduction in income which makes previously established support obligations unfair to them. In either case, some simple procedure for making the appropriate adjustment should be readily available. Implementing demonstration projects as authorized by S. 1511 and S. 1001, would be preferable to simply imposing an updating requirement.

It could also be required that state IV-D agencies write courts into their cooperative agreements for the purpose of automating or otherwise fulfilling any updating requirement.

If updating is required, the burden on courts would be substantially reduced if it were mandated that updating be accomplished solely by application of the state's presumptive guideline. Otherwise, any change in the established amount could only be accomplished under the law of many states by a showing of substantially changed circumstances. Satisfying that standard is a time consuming process that should be unnecessary with the advent of presumptive guidelines.

## IMMEDIATE WAGE WITHHOLDING

Immediate wage withholding (without waiting for an arrearage) would reduce the stigma of punishment which currently attaches to withholding orders. It also averts the burdensome process of implementing a wage withholding after nonpayment.

All obligors should be required to pay through whatever the central registry is in a given jurisdication, again because treating everyone equally reduces the stigma for those who object. This process also ensures accurate payment records which avoids conflicts over what was paid and when and whether it was intended as child support. Provisions in H.R. 1720 and S. 1001 and S. 1511 which allow exceptions to the immediate withholding requirement and any exceptions to requiring that all payments be made into the central registry, make it possible for nonpayment to be concealed, and put the obligee and child(ren) in a more vulnerable position, because without the wage withholding and without the payment record, enforcement proceedings could not be automatically initiated by the Court or Agency, but would instead have to be initiated by the obligee.

Some mechanism for automatic enforcement of the obligations of nonwage earners should also be required.

## SERVICE OF PROCESS

A fundamental requirement of due process is that respondents receive adequate notice of proceedings that have been instituted against them and of scheduled hearings in those proceedings. A frequent failing of the child support system is its inability to give such notice.

Persons whose arrest is ordered in child support cases are frequently apprehended because they have been stopped for a traffic violation or some other offense and the arrest order appears on the Police Information Network. Summonses, subpoenas, and notices of hearings are not however included on that network. Perhaps they could be.

It would also be helpful if Congress would direct the states to simplify service of process requirements, without of course sacrificing due process. A duty could be imposed on obligors to keep the court or the child support agency informed of any change in address and the law could provide that it would be sufficient to send by first class mail any notice of hearing to the address at which the obligor was served or any new address (s)he made known to the Court or Agency.

Congress could also impose performance standards for service of process, and could mandate that service by private individuals be available on a contract basis.

# RESOLUTION I

## Child Support Enforcement

WHEREAS, the Conference of State Court Administrators recognizes the need for effective mechanisms at the state level to assign and enforce parental child support obligations, and

WHEREAS, the House has passed H.R. 1720, the Family Welfare Reform Act, and a companion measure, S. 1511, is pending in the Senate Finance Committee, and

WHEREAS, this legislation includes important amendments to the Child Support Enforcement Amendments of 1984 which would have a significant impact on the child support programs of state court systems, and

WHEREAS, these amendments include provisions that would (1) require updating of child support orders every two years, and (2) create a Commission on Interstate Child Support to recommend measures for improving interstate enforcement of child support orders, and

WHEREAS, a two-year updating program would be extremely difficult if not impossible to administer and would divert court resources that could be used more effectively in ongoing child support enforcement efforts, and

WHEREAS, the courts are an indispensible resource in the interstate enforcement of child support orders,

NOW THEREFORE BE IT RESOLVED, that the Conference of State Court Administrators urges the Congress to delete the requirement for mandatory biennial review from the pending bills and add a provision that would allow parties to apply as frequently as every two years to seek an update of award pursuant to established guidelines. The IV-D agency would be required to review and seek modification if such action would be reasonable.

BE IT FURTHER RESOLVED, that the Conference urges the Congress to provide that representatives of the Conference of Chief Justices and the Conference of State Court Administrators be included in the membership of the Commission on Interstate Child Support.

Adopted at the Conference of State Court Administrators at the Ninth Midyear Meeting, in Williamsburg, Virginia on January 28, 1988.

Mrs. KENNELLY [presiding]. Thank you, your honor, and thank you for you excellent testimony.

Mr. Williams.

## STATEMENT OF ROBERT G. WILLIAMS, PRESIDENT, POLICY STUDIES, INC., DENVER, CO

Mr. WILLIAMS. Hello. My name is Robert Williams. I am president of Policy Studies, Inc., which is a Denver based consulting and research company. I am here, I think, primarily because our company is engaged in a rather wide array of research and technical assistance efforts in the area of child support.

The most notable ones are that, along with the National Center for State Courts, we have been responsible for the research and technical assistance in the area of child support guidelines and along with Mathematica or Policy Research, we are contractors for the national evaluation of the impact of the 1984 amendments, a study that we just started. We have also been involved in some interstate projects and some paternity projects.

I would like to just touch on a couple of key points and then give you an opportunity to ask questions. One is that the chairman said earlier, if I am paraphrasing him correctly, that the committee expected or wants to know why passage of the 1984 amendments did not have a more dramatic impact in terms of resolving the child support problem.

Mrs. KENNELLY. Well, we are really having an oversight hearing. These are oversight hearings to see exactly where we are in relationship to the 1984 amendments and it is a little too early to make too many judgments. But I know we know we are not startled by the fact that we are having immediate results. But I think it is our responsibility to see where we are and where we should go.

Mr. WILLIAMS. Right. I appreciate that point. What I wanted to say, I wanted to use that as a starting point for talking about future issues, because that is where my testimony is directed.

I just wanted to look at this from a slightly different slant. The 1984 amendments were a landmark piece of legislation, but they were focused primarily on enforcement issues. If we look at, "the problem" of child support, I think as the committee knows by now, there are several different elements. One is getting orders established. The second is getting adequate levels of orders. The third is getting orders enforced.

If we look at the shortfall of enforcement, one thing that I have not heard stated quite directly here is that looking at the census figures in 1985, we had two-thirds of the dollars that were owed already being collected, even before there was any impact from the 1984 amendments.

In other words, out of the $10.9 billion that was owed, there was $7.2 billion collected already, leaving a shortfall of about $3.7 billion. Now, that is not a trivial amount of money and it is something that has to be addressed, but far larger issues, I think, have to do with two other factors.

One is the lack of establishment of orders, the fact that we only have about 50 percent of custodial parents with orders due and owing; and then, adequate levels of orders. I think that Ron Haskins has already led the study that has been corroborated by others showing that if child support were set and reset based upon child support guidelines, that there would be more like $27.5 billion owed rather than $10.9.

So that says, in terms of future issues, we need to look more at the area of nonestablishment and at the area of getting child support up to adequate levels. Obviously, H.R. 1720 has tried to get at some of these issues and will help a great deal by making guidelines presumptive, for example, and by requiring that at least IV-D orders be reviewed very 2 years.

But I would like to underscore the point that has been made earlier, that that legislation only applies, with respect to the periodic review of orders, to IV-D cases. It does not extend to the great number of cases that are not IV-D And a future issue is how can we do that?

We do not have the infrastructure now to do that, but there is a need to do that, because that is where a lot of the short fall is, is in terms of getting this old stock of orders up to adequate levels, the ones that have been pending for 5, 10, or 15 years.

Second, in terms of enforcement, it is not clear to me the extent to which there is a realization—and again, this has been said before but I want to really underscore the point—that there is a whole range of requirements in the program now that only apply for IV-D cases, and H.R. 1720 would really reinforce that trend.

Not only would immediate income withholding only apply to IV-D cases, and not only would the updating provision only apply to IV-D cases, but the requirement that States develop and implement comprehensive systems refers to systems that are comprehensive in function but not in terms of child support coverage. In other words, these systems are only required to support child support processing functions, such as monitoring and collection functions, for IV-D cases.

Now, what proportion of cases are IV-D cases? We looked hard for an estimate and could not find one, so we developed one, and I think it is in the ballpark. In 1985 we had a situation where about 37 percent of child support dollars came in through the IV-D system. As best I can tell, between 50 and 60 percent of custodial parents are within the jurisdiction of the IV-D program and a smaller proportion of cases with orders would be in the jurisdiction of the IV-D program.

We have a problem in that we are coming up with a range of requirements that are only applying to half or less, probably, of the active cases and maybe 50 to 60 percent of all custodial parents.

So, essentially in the written testimony, I am suggesting some approaches. Obviously, one possibility would be to expand IV-D to encompass all child support cases, but that is rather costly and we obviously have a budget deficit.

Another possibility would be to fund the development of the collection monitoring systems that have been discussed to support the processing of all cases, not just IV-D—that is a relatively small add-on—require that States still support the operations of those systems, which could be done through some modest surcharges to child support collections, as some States do already.

That would put in place a base for implementing some of these other kinds of procedures that we need to expand the impact of what we are doing.

So essentially what I am advocating here today is that if we look at the entire problem, we need to look at some mechanisms for addressing that, and I have suggested some in the written testimony.

[The statement of Mr. Williams follows:]

# TESTIMONY CONCERNING THE FUTURE OF CHILD SUPPORT ENFORCEMENT

Robert G. Williams, Ph.D.
President, Policy Studies Inc.
Denver, Colorado

Mr. Chairman and members of the subcommittee, my testimony is based on the national research and technical assistance activities conducted by my firm in the area of child support enforcement. Among other responsibilities, I am Principal Investigator of the Child Support Guidelines Project, funded by the U.S. Office of Child Support Enforcement and administered by the National Center for State Courts. I am also Co-Principal Investigator for the National Evaluation of the 1984 Child Support Enforcement Amendments, for which Mathematica Policy Research is the prime contractor. My comments are my own and should not be construed as representing the views of any other organization.

There are three major elements to our child support system: establishment of orders, setting levels of orders, and enforcement of orders. In addition, special considerations apply for all three child support elements in cases where orders must be established or enforced across state lines.

The landmark Child Support Enforcement Amendments of 1984 (P.L. 98-378) greatly strengthened the child support system in this country, particularly the tools available to enforce obligations after accumulation of arrearages. Passage of H.R. 1720 would further strengthen the system, but there remain major gaps. The most significant of these gaps, and the issues relating to them, are as follows:

(1) Non-establishment of orders. In an unacceptably large proportion of appropriate cases, child support orders are not established. Without an order in place, no potential exists for legally enforceable receipt of child support. This problem is most serious for cases involving non-marital births. H.R. 1720 sets performance standards for establishing paternity on behalf of AFDC recipients and requires states to enact presumptive blood testing standards. But for non-AFDC cases of any type, there appears to be a general reluctance by child support agencies to assist custodial parents in establishing paternity, or in establishing child support orders generally, even if paternity is not in question.

(2) Inadequate levels of orders. Analysis of average levels of existing child support orders shows that they are far below the costs of rearing children as measured by the best available economic evidence. Inadequate orders result in part from insufficient initial orders. This would be addressed in H.R. 1720 by requiring states to implement presumptive guidelines. To a greater degree, however, inadequate child support levels result from the absence of a routine process for modifying orders to reflect changes in parental income and children's needs. H.R. 1720 would require Title IV-D cases to be reviewed every two years, but there would still be no such requirement for non IV-D cases.

(3) Ineffective establishment and enforcement across state lines. Newly available data indicate that interstate obligations are difficult to establish, are frequently set at levels well below normal standards, and are enforced only erratically. The legal structure for interstate actions, which predates establishment of the Title IV-D child support enforcement program, is deeply and irredeemably flawed. More recent attempts to establish better interstate remedies have not yet been successful. H.R. 1720 authorizes creation of a Commission to formulate recommendations on interstate enforcement. Interstate case processing will remain an issue, however, unless the Commission

can initially develop and subsequently achieve the adoption of a revamped legal structure for handling interstate cases. Although improved technological approaches are useful, more far-reaching change is needed in our approach to this issue.

(4) Limited access to enforcement tools for non IV-D cases. Procedures for income withholding are made available to non IV-D cases, but these procedures are frequently complex and not readily understood. In many -- if not most -- jurisdictions, a non IV-D obligee must retain an attorney to initiate income withholding. States have no obligation to track child support payments for non IV-D cases. The Federal Parent Locator Service is not made available to non IV-D cases, nor are the income tax offset programs. Moreover, the immediate income withholding provision in H.R. 1720 would not apply to IV-D cases.

A few steps at a time, Congress appears to be moving toward a goal of a universal child support system in this country: a system in which child support orders are established for all custodial parents, a system in which orders are set based on guidelines and reviewed routinely, and a system in which child support payments are automatically withheld as payroll deductions. Perhaps the most important issue is that these steps have thus far mostly been limited to Title IV-D cases. They have not addressed the broad remainder of the custodial parent population outside of the federal child support enforcement system.

Our best estimate is that, in 1985, 50 to 60 percent of custodial parents were assigned to the IV-D program and that the program accounted for 37 percent of the collections. This means that almost half the cases and almost two-thirds of the dollars are outside the Title IV-D system. Although states are expanding their services to non-AFDC IV-D custodial parents under the mandate of the 1984 amendments, most states in our experience are doing so only up to the level where they encounter the ceiling on incentive payments. Thus, federal initiatives which close gaps in the Title IV-D program improve collections for a significant fraction of all custodial parents, many of whom are dependent on welfare or have low non-welfare incomes. But these initiatives also leave many other custodial parents without significant assistance.

In this testimony, I do not recommend that Title IV-D coverage be extended to all child support cases. Rather, I analyze each element of the child support system (establishment, order levels, interstate processing, enforcement) and identify future issues. Within each element, I draw conclusions about what appear to be the most effective solutions.

Of particular note, I suggest measures that could greatly expand the impact of federal child support legislation. Primary among them are the requirement that states extend comprehensive automated collection, monitoring, and distribution systems to non IV-D cases. Federal funds would be used for the development and implementation of such systems, the cost of which would be moderate. Operating costs for non IV-D cases would not be federally reimbursed, however. Such systems could be "self-funded" through a structure of modest child support surcharges. These "self-funded" systems would provide the base for greatly facilitated enforcement remedies for non IV-D cases. They could also provide mechanisms for universal updating systems and more systematic processing of interstate transactions.

## Lack of Child Support Orders

A little known and poorly understood problem in the area of child support is that fewer than half of all potentially eligible custodial parents have child support orders and are also supposed to receive support in a given year. The most recent Census Bureau study of child support, covering obligations and payments in 1985, showed that only 61 percent of women custodial parents had been awarded child support and only 50 percent were supposed to receive child support in that year. In half the cases, then, a child support order had either not been established or payment was not due in that particular year.[1] Further analysis of this data shows that the lack of awards is particularly acute for cases where the custodial parent has never been married. Whereas 82 percent of divorced custodial parents have child support awards, only 43 percent of separated custodial parents and only 18 percent of never-married custodial parents have awards.

These statistics demonstrate that particular attention is needed for establishment of child support awards in cases where paternity establishment is also at issue. When collection rates are taken into account, the Census Bureau figures show that only 11 percent of never-married custodial parents receive any child support in a given year.

In our judgment, the changes in pending federal legislation could materially improve performance in paternity establishment, but other issues remain. First, as provided in H.R. 1720, there should be a statutory requirement that states pursue all AFDC (or replacement program) cases needing paternity establishment. But this policy is too limited in that it ignores the non-AFDC cases needing paternity establishment that are at high risk of becoming welfare recipients. The policy could be expanded to include a requirement that states specifically publicize the availability of paternity establishment services for non-AFDC cases and provide sufficient resources to assist in establishment of paternity for all such cases needing services. Although agency resources are stretched, paternity establishment is critical to reducing and avoiding dependency, and improving the economic well-being of this high poverty group.

Second, as specified in H.R. 1720, the requirement that all states pass presumptive blood-testing statutes would improve the process greatly. Colorado has had such a statute for several years. It has greatly expedited the paternity establishment process and practically eliminated the need for trials while nevertheless affording ample due process protections to alleged fathers.

Third, the Secretary of DHHS should be required to establish regulatory standards for adequate state performance in establishing AFDC paternity. H.R. 1720 sets performance standards for paternity establishment which are percentage increases in current levels of paternity determinations. However, mandating percentage increases in the current base penalizes states that are already performing at high levels, while allowing poorly performing states to satisfy the standards with insufficient increases. A more effective approach would set the standards for paternity determinations based on a target proportion of AFDC cases needing paternity establishment. Perhaps even better would be a requirement setting a target level as a proportion of all out-of-wedlock births within a jurisdiction. In the latter instance, child support enforcement agencies would be influenced to focus attention on the broader universe of non IV-D unwed mothers as well as those already in the IV-D system (usually because of AFDC eligibility). Such cases could be targeted through outreach programs and encouraged to sign up for IV-D services.

Fourth, the Secretary of DHHS should be required to establish regulatory time standards for paternity determination. The current standards for expedited process of child support cases exempt paternity determinations, except at state option. Just as expedited process standards have improved the case management of child support cases requiring adjudication, time standards would speed case handling for paternity cases. Because such cases can be more complex than other child support actions, the time standards for paternity establishment should be higher than for other actions.

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[1] U.S. Bureau of the Census, Child Support and Alimony: 1985 (Advance Data from March-April 1986 Current Population Surveys), Current Population Reports, Special Studies, Series P-23, No. 152 (August 1987).

The problem of non-establishment extends beyond paternity cases, however. More than half of separated custodial parents have no child support order and about one-fifth of divorced parents are also without awards. Although IV-D agencies are supposed to accept applications and assist in establishing orders for any case needing such assistance, in our experience many IV-D agencies avoid providing such services because of resource shortages. It is difficult to recommend solutions to this problem, short of mandating that states increase their administrative resources for child support enforcement. Perhaps as more efficient enforcement systems are developed, more IV-D agency resources will be shifted toward the establishment function. In the meantime, perhaps tighter audit requirements might help, along with a mandate that public awareness campaigns specifically advertise the availability of services to establish child support orders, not just services to assist with enforcement.

### Inadequate Levels of Orders

Recent studies have shown that child support awards are critically deficient when measured against the economic costs of child rearing. A 1985 study performed for the U.S. Office of Child Support Enforcement estimated that $27.5 billion in child support would have been due in 1985 if child support were set based on either of two well-known guidelines: the Delaware Melson Formula or the Wisconsin Percentage of Income Standard.[2] By comparison, the Census Bureau study on child support found that $10.9 billion in child support was reported to be due in 1985. These figures suggest that there was a "compliance gap" of $3.7 billion in 1985, but an "adequacy gap" of $17 billion.

In the 1985 Census study of child support, the mean court-ordered obligation in effect during 1985 was reported to be $2,393 per year, or $199 per month. This obligation covered, on average, 1.82 children. This amount provides only a fraction of the normal cost incurred in rearing that number of children. As estimated in an authoritative study by Thomas Espenshade, an order for $199 is equivalent to only 25 percent of the average expenditures on children in a middle income household.[3] Other figures show that court-ordered support falls well short of even the most minimal standards for costs of children. Based on the U.S. poverty guideline, the average court order would have supported the subject children only at 80 percent of the poverty level for 1985.

The statistics on child support levels for 1985 refer to those orders in effect in 1985 and therefore include many orders set earlier as well as those newly established in that year. Consequently, the "adequacy gap" in child support orders has two components. The first component is inadequate initial orders. This component is being addressed effectively by the requirement in H.R. 1720 that states implement presumptive support guidelines. Under this requirement, judges and hearing officers will be mandated to use child support guidelines unless they make specific findings in individual cases that the guidelines would yield inequitable results.

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[2] Ron Haskins, et al., Estimates of National Child Support Collections Potential and the Income Security of Female-Headed Families, Report to U.S. Office of Child Support Enforcement, Bush Institute for Child and Family Policy, University of North Carolina at Chapel Hill, April 1985. Haskins estimated the amount due for 1984 to be $26.6 billion. We adjusted this estimate to 1985 values using a consumer price index adjustment.

[3] Extrapolated to 1.8 children. See Thomas J. Espenshade, Investing in Children: New Estimates of Parental Expenditures (Urban Institute Press: 1984). See also, Robert G. Williams, Development of Guidelines for Child Support Orders, Report to U.S. Office of Child Support Enforcement, National Center for State Courts (March 1987).

The second component is more serious and less tractable. It is the absence of systematic updating procedures for child support awards. Since the value of child support orders erodes with inflation and increasing obligor income, orders that are more than a few years old can be greatly deficient even if they were initially established according to a reasonable standard. A modification provision is included in H.R. 1720, which would require IV-D agencies to review and update child support orders based on child support guidelines at least once every two years. But this provision will not affect non IV-D cases.

Once orders are set, there is no routine, self-starting process for getting them modified to account for changing circumstances of the parties and evolving needs of the children. Indeed, in the great majority of states, a parent must not only petition a court for a modification, but also has the burden of proof to demonstrate that a modification is justified. The most frequent criterion is that the petitioner must show there has been a change in circumstance that is continuing and so substantial that it renders the original award inequitable. Some states have even required a showing that the original order would be "unconscionable" if the modification is not granted. These types of legal barriers, in conjunction with the need to retain attorneys and deal with a court process, pose major deterrents to obtaining needed updates of orders. In turn, the lack of routine modification is probably the most significant contributing factor to the inadequacy of awards.

Periodic modifications of orders using guidelines can help ensure that the orders continue to be economically adequate and that they fairly reflect the circumstances of the parties and needs of the children. But, even though all courts retain continuing legal jurisdiction over child support until children are emancipated, there is considerable resistance to routine modifications of orders. There is currently no viable infrastructure for accomplishing routine, periodic reviews of child support for all child support cases. Courts are resistant to the concept, even though they might agree to the need, because they are confronted with the specter (which may be exaggerated) of overwhelming increases in case volume. There is little precedent for courts to initiate periodic reviews of child support orders and no mandate for IV-D agencies to do so for non IV-D cases. There is a lack of efficient computer-supported administrative models for supporting this function. Some courts and attorneys are also opposed to an automatic modification process that would remove the requirement for petitions by obligees.

To address these concerns about periodic modification processes, the Advisory Panel on Child Support Guidelines recommends that "...Congress allocate funds for demonstration projects intended to develop suitable models of systematic updating processes and to evaluate their effects." These projects could develop and test suitable models for routine updating of child support orders. As stated by the Advisory Panel:

> Courts and child support agencies resist implementing systematic modification programs because of the absence of available models and the lack of information on costs and benefits. For a systematic updating process to be efficiently operated, a high degree of automation and the development of innovative new processes would be required. While the concept for a systematic updating mechanism is outlined in the Final Report (pp. 95-97), considerable development

and careful testing would be needed for implementation and evaluation of a prototype.

The Advisory Panel then recommends that Congress appropriate funds for a series of demonstration projects for development and evaluation of systematic updating processes. It states: "Through a set of projects, effective prototypes could be developed and credible data collected on the costs and benefits of structured, periodic modifications of child support." The Advisory Panel believes that such prototypes could help overcome court and agency resistance to routine modifications. They could also provide convincing data on the cost-effectiveness of alternative approaches.

The Advisory Panel also recommends that Congress "...enact legislation which requires states to make a change in circumstance the sole standard for considering modification of a child support order and, further, that adoption of a guideline be deemed a change in circumstance for purposes of modification." This issue is not addressed by pending federal legislation. The recommendation is intended to permit access to the benefits of guidelines without invidiously discriminating against those whose orders were established prior to guidelines implementation dates. Its impact would reach beyond the Title IV-D program to all child support cases.

Thus far, California is one of the few states to adopt this standard. Some states restrict use of guidelines to orders established after implementation, some require that a criterion such as "substantial and continuing change" first be met, and several others have set a presumptive quantitative standard for application of guidelines to previously established orders. Vermont, for example, provides that a fifteen percent change in support, when recalculated using the guidelines, is presumed to meet the state's standard of substantial change in circumstances. Making implementation of a presumptive guideline grounds for considering modification of an order would remove excessive barriers to the court system for custodial parents whose previous orders were set without the benefit of guidelines.

A compelling future issue for child support, then, is the need for developing a process for carrying out routine updates of all outstanding child support orders based on equitable re-application of child support guidelines. Until an institutional mechanism is developed to accomplish this end, child support orders will continue to erode in value and equity relative to their initial levels.

## Interstate Case Processing

Establishing and enforcing child support orders across states lines pose complex and seemingly intractable problems for courts, attorneys, child support agencies, and parents. These problems have become more severe as societal mobility increases. A University of Michigan study of separated parents nationwide found that 12 percent lived in different states one year after divorce or separation. That proportion grew to almost 25 percent three years after, and to 40 percent eight years after divorce or separation.[4] Estimates based on the federal tax refund offset programs, as supplemented by other sources, suggest that approximately 30 percent of the child support cases involve interstate residency of the obligor and obligee.

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[4] Martha S. Hill, "PSID Analysis of Matched Pairs of Ex-spouses: The Relation of Economic Resources and New Family Obligations to Child Support Payments," Report to Office of Assistant Secretary for Planning and Evaluation of U.S. Department of Health and Human Services, University of Michigan Institute for Social Research, November 1984.

The effectiveness of the child support enforcement system depends on an augmented ability to establish and enforce interstate obligations. Otherwise, as many obligors have found in the past, orders to pay child support can be evaded, or at least substantially delayed, simply by moving across a state line.

With the assistance of our research firm (Policy Studies Inc.). Michigan recently completed a federally funded demonstration project for interstate case processing. The results of this study, which are consistent with an earlier demonstration project in Maryland, identified serious deficiencies in current case processing. These deficiencies can be summarized as follows:

(1) Uniform Reciprocal Enforcement of Support Act (URESA) cases sent by Michigan courts to other states have only a 41 percent chance of yielding an order in the other state.

(2) For those cases in which an order is obtained, lengthy delays are encountered. The average time for Michigan to obtain an order in another state is almost eleven months. About one-third of that time is devoted to locating the obligor, obtaining proper documentation, and preparing the pleadings.

(3) Orders obtained under URESA are typically about 40 percent lower than the requested amount and are four to eight percent below a previously existing order.

(4) Of all interstate cases sent out by Michigan, only 41 percent included a request for arrearages. The percentage was even lower for incoming cases: only 32 percent included such a request for arrearages. Of these requests, only about 40 percent were ordered to be paid, with the remainder either reduced or denied.

(5) If an interstate action is required to establish paternity, the matter is rarely pursued. In only one of the five Michigan counties sampled were any interstate paternity actions filed.

(6) Petitions to modify existing interstate child support orders are rare. Once a URESA order is established in another state, any effort to obtain a modification to reflect the current circumstances of the parties is infrequent.[5]

With our increasing societal mobility, the erratic nature of interstate processing looms increasingly large as a major gap in the child support system.

Most interstate establishment and enforcement actions are handled under the Uniform Reciprocal Enforcement of Support Act (URESA), created in 1950 and amended as recently as 1968. All states have passed at least some version of URESA, as well as several foreign jurisdictions. Systems and procedures for child support enforcement agencies and the courts are firmly geared to both sending and receiving URESA orders to the exclusion of alternative interstate remedies.

Yet, it has become all too clear that URESA is too often misunderstood and misapplied. Moreover, as should be apparent from the above evidence, the overall results obtained from its use are critically deficient. The outcomes for case actions are uncertain, there is a high attrition rate for petitions, the delays are lengthy even if a resolution is achieved, orders are even lower than they would be under traditional methods of establishment, paternity establishment is rarely pursued, and modifications to existing orders are almost never obtained.

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[5] J. Bruce Kilmer, et al., Analysis of Interstate Case Processing in Michigan. Report to Michigan State Court Administrative Office, Policy Studies Inc., October 1987.

There are additional defects in URESA. There are due process problems, especially for the obligee, because of ambiguities in legal representation by public attorneys and inadequate notice of decisions and appeal rights. The fact that multiple orders for the same case can be established under URESA, and that payments must be accounted for separately under each is needlessly complex and confusing for obligors, obligees, courts, and child support agencies. There is no provision for separately addressing custody and visitation issues, with the result that they are often inappropriately intertwined with child support issues.

It is noteworthy that URESA was enacted by states long before the creation of the Title IV-D child support enforcement program. Thus, the institutions and remedies provided under the IV-D program are not integrated into the interstate legal structure provided by URESA. The 1984 Amendments provided that all states make available their income withholding processes for enforcement of other states' orders. This represented an attempt to substitute a more streamlined interstate remedy for the traditional mechanisms available under URESA. Although interstate income withholding has excellent potential to improve the interstate process, it is being used only sporadically by states due to the lack of uniform implementation and unfamiliarity with the procedure.

With URESA, interstate income withholding, and other available methods, there has come to exist an array of options for establishing and enforcing interstate child support obligations. The existence of these options means that choice of an appropriate remedy has become unduly complex for attorneys and line staff. The confusion thereby created has contributed to the poor performance for interstate cases.

The legal structure for interstate child support actions needs to be thoroughly overhauled. H.R. 1720 would establish a Commission on Interstate Enforcement to study interstate problems and develop a model law. This provision could represent a constructive approach to this problem, but only if the Commission is mandated to develop a comprehensive new law that would supercede URESA and subsume the full range of interstate legal processes.

The complexity of legal issues requires that the Commission be given adequate staff and contractual funds to support its efforts and that it be required to solicit the involvement of a broad spectrum of representatives from the bar, judiciary, child support enforcement agencies, advocate organizations, and child support research organizations. The one year term provided for this Commission is not realistic in view of the complex constitutional and administrative issues involved. Two years should be the minimum period allowed, and three years should be considered.

An additional issue is that interstate enforcement under URESA, the traditional remedy, is essentially a county-to-county rather than state-to-state mechanism. This greatly compounds the complexity of the procedure, increases the number of misdirected cases, and makes accountability more difficult to fix. The new interstate regulations requiring referral of URESA cases through a central point will help this situation, but handling interstate cases would be much easier if cases could be tracked, monitored, and enforced using a statewide database.

### (4) Limited Access to Enforcement Tools for Non IV-D Cases

From a review of the legislative history of the Child Support Enforcement Amendments of 1984, it appears that Congress was motivated by the concept that it was undertaking a comprehensive attack on "the child support problem." This legislation has indeed had a strong -- and still growing -- impact on child support levels and compliance. About half of all states have adopted guidelines with presumptive status even though not required to do so. Enforcement tools have been greatly improved, especially for IV-D cases. Yet many of the most effective remedies under that legislation and H.R. 1720 are reserved for Title IV-D cases. Non IV-D cases represent more than 60 percent of child support dollars, and perhaps even a larger fraction of the potential total. It is apparent, then, that more efforts need to be directed to the group outside the federally sponsored enforcement system than has heretofore been the case.

Consider the following legislative provisions. For IV-D cases, the 1984 amendments require that states monitor child support collections, identify arrearages automatically, and initiate income withholding without any action by the obligee whenever a one month arrearage accrues. For non IV-D cases, states have no obligation to monitor collections and determine when arrearages have occurred. The income withholding process must be made available to non IV-D obligees, but its use may be complex and, in fact, frequently requires that attorneys be retained. Under the 1984 Amendments, IV-D cases have access to the Federal Parent Locator Service and tax refund offset programs. Non IV-D cases do not.

Under H.R. 1720, non IV-D cases will benefit from the requirement that states establish presumptive guidelines. But the requirement for periodic updates of orders is limited to IV-D cases. States will be mandated to enact laws requiring immediate income withholding for IV-D cases, but not non IV-D cases.

Finally, in a provision that has far-reaching implications, states will be required to implement certifiable automated systems by 1992, if H.R. 1720 passes. Such systems are critical to the effective and efficient enforcement of child support. They are required to have capabilities for monitoring all collections of cases in the system, determining when arrearages have accrued, and prompting appropriate enforcement actions. However, there is no requirement that these capabilities be extended to non IV-D cases. In other words, these "comprehensive" systems that states are required to implement are comprehensive in the functional sense, but not in the types of cases to be covered. This means that the benefits that will be extended to IV-D cases under such systems, especially the critical functions of automatic monitoring and enforcement initiation, will not be available to non IV-D cases in most states.

The differential treatment under federal legislation will leave non IV-D cases with only limited improvement in their ability to obtain adequate child support. One solution would be to enroll all new child support cases, and as many old ones as possible, into the IV-D program. Pennsylvania has a universal enforcement system where virtually all child support cases are enrolled in IV-D. Michigan also has a universal enforcement system through the Friend of the Court but many cases are still handled outside the IV-D system. The universal IV-D option does not seem to be realistic with the current federal deficit situation, however. Nor is it likely necessary. Many child support cases do not need the level of service that states are required under federal audit standards to provide to IV-D cases.

A far less expensive solution, but one which could have a powerful impact, would be to mandate states to require all child support payments to be made through courts or child support enforcement agencies. States would also be mandated to extend their automated collection and monitoring systems to all child support cases by a specified date. Once such systems were in place, states could be required to extend immediate, universal income withholding to all child support cases.

Such systems, generically termed Clearinghouses, would provide mechanisms for processing withholdings from employers. Employers could transmit their child support withholdings for all employees to a single processing point within the state. The Clearinghouses would provide the means for inexpensively monitoring compliance for all child support cases. Non IV-D obligees whose payments are interrupted would receive a notification from the Clearinghouse and instructions on how to use enforcement remedies, normally without assistance from an attorney. These remedies might include initiation of wage withholding for older cases, initiation of a new wage withholding action if the obligor has transferred employers, or application to the IV-D agency if more services were needed (e.g. locate, interstate withholding, levy and execution for self-employed obligors).

Such Clearinghouses could serve as the platforms for building on a range of Electronic Funds Transfer capabilities, such as are beginning to be tested in Iowa. These have the potential to expedite payment processing and distribution while lowering transaction costs.

An important role of the Clearinghouses could be to provide an administrative structure for periodic reviews and modifications of all child support orders. Since the Clearinghouses would have all child support orders on the system, at the appropriate time (every two years, for example) they could produce financial questionnaires to be completed by both parents, edit information that is submitted, compute new child support obligations based on the guidelines, and issue new provisional orders that would become effective unless either party petitioned for a hearing.

The existence of such Clearinghouses would simplify interstate exchanges. They could be used for automated transfer and tracking of all interstate cases. They could serve as a statewide focal point for inquiries and transaction referrals from other states.

We recommend that the federal government require states to develop such Clearinghouses by some future date, and that the federal government reimburse states for 90 percent of the development of such systems. Now the federal government will reimburse 90 percent of the development costs for comprehensive automated systems, but only for IV-D cases. The marginal cost of extending development to non IV-D cases would be quite low.

Operating costs for non IV-D cases should not be federally reimbursed. These can be funded (as they are in some states) through a nominal surcharge on child support payments. In Colorado, for example, we calculated that the entire non IV-D operating expense for such a system could be funded from a 2 percent fee, with a maximum charge of $3 per month. Under this plan, the extra federal share of the costs for such systems would be limited to supporting the marginal cost of development costs for non IV-D cases. The ongoing operations would be supported by obligors, rather than taxpayers at either the state or federal levels. The net result, then, would be a "self-funded" system that would provide a mechanism for greatly improving enforcement, and regular periodic updates for all child support orders.

Mrs. **Kennelly**. Having looked at your testimony in bulk, I noticed that you recommended that performance standards for paternity determinations be based on a target proportion of all out-of-wedlock births within a jurisdiction.

Our question to you is, do you think there is enough data available that the Federal Government could in fact set up this type of situation that would be meaningful to us in the information gathered?

Mr. **Williams**. That is probably some of the easiest data to get because vital statistics agencies of health departments normally have that data. I have not looked at every State. I have been involved in a couple where we were able to get that data with a phone call.

[The following was subsequently received:]

**Policy Studies Inc.**

1410 [illegible] Street
Denver, Colorado 80203
303/863-0900

March 15, 1988

Mr. Richard Hobbie
Subcommittee on Public Assistance
and Unemployment Compensation
Committee on Ways and Means
U.S. House of Representatives
Rayburn House Office Building Room B-317
Washington, D.C. 20515

Dear Rich:

Last week, you asked me about the availability of information about out-of-wedlock births by state. Enclosed is a table that we developed showing that information, along with the number of paternities established under the IV-D program, and the ratio of the two. Sources of this information are the National Center for Health Statistics (DHHS) Monthly Vital Statistics Report, Vol. 36, No. 4 (July 17, 1987), Table 16 and the OCSE, Eleventh Annual Report to Congress, Volume II, Fiscal Year 1986 Statistics, Table 37. Copies of the relevant tables are enclosed.

The figures in the table are quite interesting. They show the wide range of variation in state performance in paternity establishment. In my personal experience, Michigan and New Jersey have aggressive paternity establishment programs. This is confirmed by the figures in the table which shown that those IV-D agencies are establishing paternities at a rate exceeding 50 percent of out-of-wedlock births. In contrast, some states such as Arizona, Oklahoma, and Texas seem to have very weak efforts.

As estimates of paternities established for current year out-of-wedlock births, these numbers may be slightly deceiving. Some states with higher numbers may be working the backlog of previously unestablished paternities. Moreover, there may be some reporting anomalies in these numbers. For example, the Missouri numbers shown in the table may not be completely accurate. Overall, however, this table suggests the possibility of using total out-of-wedlock births in a state as a standard of performance for paternity establishment by IV-D agencies. It is also illuminating as evidence of the great disparities in state efforts that current exist.

We hope this information is useful to the subcommittee. Please feel free to call if you have questions or wish to discuss this issue further.

Sincerely,

Robert G. Williams

Robert G. Williams, Ph.D.
President

## OUT-OF-WEDLOCK BIRTHS AND IV-D PATERNITIES: 1985

| STATE | BIRTHS TO UNMARRIED WOMEN | IV-D PATERNITIES ESTABLISHED | PATERNITIES/ BIRTHS (%) |
|---|---|---|---|
| ALABAMA | 14,897 | 6,750 | 45.3 |
| ALASKA | 2,344 | 84 | 3.6 |
| ARIZONA | 14,172 | 495 | 3.5 |
| ARKANSAS | 7,898 | 2,941 | 37.2 |
| CALIFORNIA | 115,671 | 23,820 | 20.6 |
| COLORADO | 9,158 | 1,426 | 15.6 |
| CONNECTICUT | 9,358 | 4,622 | 49.4 |
| DELAWARE | 2,522 | 1,120 | 44.4 |
| DIST. OF COLUMBIA | 5,598 | 583 | 10.4 |
| FLORIDA | 42,202 | 14,452 | 34.2 |
| GEORGIA | 24,764 | 5,809 | 23.5 |
| HAWAII | 3,644 | 688 | 18.9 |
| IDAHO | 1,893 | 383 | 20.2 |
| ILLINOIS | 46,495 | 7,035 | 15.1 |
| INDIANA | 16,020 | 5,149 | 32.1 |
| IOWA | 5,590 | 1,366 | 24.4 |
| KANSAS | 5,843 | 325 | 5.6 |
| KENTUCKY | 9,799 | 3,315 | 33.8 |
| LOUISIANA | 23,261 | 4,235 | 18.2 |
| MAINE | 3,012 | 809 | 26.9 |
| MARYLAND | 19,773 | 9,263 | 46.8 |
| MASSACHUSETTS | 15,033 | 5,208 | 34.6 |
| MICHIGAN | 24,941 | 16,189 | 64.9 |
| MINNESOTA | 10,158 | 3,265 | 32.1 |
| MISSISSIPPI | 14,275 | 2,600 | 18.2 |
| MISSOURI | 16,599 | 14,423 | 86.9 |
| MONTANA | 2,270 | 54 | 2.4 |
| NEBRASKA | 3,790 | 430 | 11.3 |
| NEVADA | 2,398 | 477 | 19.9 |
| NEW HAMPSHIRE | 2,065 | 13 | 0.6 |
| NEW JERSEY | 23,495 | 13,853 | 59.0 |
| NEW MEXICO | 7,298 | 709 | 9.7 |
| NEW YORK | 72,839 | 16,595 | 22.8 |
| NORTH CAROLINA | 19,772 | 9,307 | 47.1 |
| NORTH DAKOTA | 1,347 | 530 | 39.3 |
| OHIO | 34,922 | 9,314 | 26.7 |
| OKLAHOMA | 9,149 | 590 | 6.4 |
| OREGON | 7,403 | 2,189 | 29.6 |
| PENNSYLVANIA | 36,546 | 15,613 | 42.7 |
| RHODE ISLAND | 2,549 | 244 | 9.6 |
| SOUTH CAROLINA | 13,714 | 3,479 | 25.4 |
| SOUTH DAKOTA | 2,175 | 300 | 13.8 |
| TENNESSEE | 16,214 | 6,863 | 42.3 |
| TEXAS | 50,445 | 833 | 1.7 |
| UTAH | 3,259 | 1,418 | 43.5 |
| VERMONT | 1,378 | 388 | 28.2 |
| VIRGINIA | 18,443 | 1,962 | 10.6 |
| WASHINGTON | 12,978 | 2,187 | 16.9 |
| WEST VIRGINIA | 4,202 | 223 | 5.3 |
| WISCONSIN | 13,359 | 7,384 | 55.3 |
| WYOMING | 1,244 | 210 | 16.9 |
| UNITED STATES TOTAL | 828,174 | 231,838 | 28.0 |

Child
Support
Enforcement

# Eleventh Annual Report to Congress

## for the Period Ending September 30, 1986

## VOLUME II
## Fiscal Year 1986 Statistics

U.S. Department of Health and Human Services
Office of Child Support Enforcement

BEST AVAILABLE COPY

*TABLE 37*

TOTAL NUMBER OF PATERNITIES ESTABLISHED
FOR FIVE CONSECUTIVE FISCAL YEARS

| STATE | 1982 | 1983 | 1984 | 1985 | 1986 |
|---|---|---|---|---|---|
| ALABAMA | 4,472 | 4,833 | 4,921 | 6,750 | 6,727 |
| ALASKA | 98 | 105 | 90 | 84 | 252 |
| ARIZONA | 618 | 595 | 500 | 495 | 986 |
| ARKANSAS | 1,131 | 1,489 | 1,911 | 2,941 | 7,144 |
| CALIFORNIA | 21,427 | 21,714 | 24,378 | 23,820 | 25,118 |
| COLORADC | 1,154 | 1,033 | 1,187 | 1,426 | 1,451 |
| CONNECTICUT | 4,397 | 4,563 | 4,363 | 4,622 | 4,579 |
| DELAWARE | 871 | 1,346 | 929 | 1,120 | 1,986 |
| DISTRICT OF COLUMBIA | 941 | 811 | 471 | 583 | 664 |
| FLORIDA | 8,870 | 10,679 | 15,741 | 14,452 | 14,358 |
| GEORGIA | 5,452 | 6,102 | 6,518 | 5,809 | 12,323 |
| GUAM | 144 | 173 | 115 | 170 | 128 |
| HAWAII | 1,077 | 1,181 | 888 | 688 | 836 |
| IDAHO | 34 | 84 | 205 | 383 | 299 |
| ILLINOIS | 6,194 | 7,339 | 4,711 | 7,035 | 10,820 |
| INDIANA | 3,853 | 3,036 | 6,859 | 5,149 | 3,580 |
| IOWA | 1,121 | 922 | 1,072 | 1,366 | 1,853 |
| KANSAS | 978 | 682 | 404 | 325 | 528 |
| KENTUCKY | 2,453 | 2,986 | 2,774 | 3,315 | 3,464 |
| LOUISIANA | 3,273 | 3,195 | 3,180 | 4,235 | 4,234 |
| MAINE | 595 | 604 | 554 | 809 | 570 |
| MARYLAND | 8,417 | 8,211 | 8,290 | 9,263 | 8,167 |
| MASSACHUSETTS | 3,429 | 3,766 | 3,841 | 5,208 | 2,513 |
| MICHIGAN | 12,952 | 17,374 | 13,875 | 16,186 | 17,737 |
| MINNESOTA | 2,707 | 2,994 | 3,090 | 3,265 | 3,646 |
| MISSISSIPPI | 1,751 | 1,797 | 2,139 | 2,600 | 1,964 |
| MISSOURI | 424 | 17,522 | 17,046 | 14,423 | 10,208 |
| MONTANA | 56 | 37 | 33 | 54 | 120 |
| NEBRASKA | 335 | 410 | 449 | 430 | 461 |
| NEVADA | 626 | 409 | 356 | 477 | 503 |
| NEW HAMPSHIRE | 64 | 30 | 52 | 13 | 76 |
| NEW JERSEY | 9,647 | 10,616 | 11,739 | 13,853 | 13,731 |
| NEW MEXICO | 1,071 | 1,141 | 970 | 709 | 838 |
| NEW YORK | 12,751 | 15,884 | 17,403 | 16,595 | 16,929 |
| NORTH CAROLINA | 7,071 | 7,368 | 7,185 | 9,307 | 10,014 |
| NORTH DAKOTA | 284 | 440 | 488 | 530 | 830 |
| OHIO | 8,552 | 7,767 | 9,804 | 9,314 | 10,057 |
| OKLAHOMA | 1,132 | 1,811 | 562 | 590 | 430 |
| OREGON | 2,190 | 2,173 | 1,947 | 2,189 | 2,351 |
| PENNSYLVANIA | 9,362 | 11,906 | 13,404 | 15,613 | 17,443 |
| PUERTO RICO | 37 | 19 | 12 | 5 | 22 |
| RHODE ISLAND | 333 | 451 | 549 | 244 | 98 |
| SOUTH CAROLINA | 1,413 | 2,552 | 3,879 | 3,479 | 2,538 |
| SOUTH DAKOTA | 159 | 172 | 227 | 300 | 426 |
| TENNESSEE | 5,913 | 6,592 | 6,217 | 6,863 | 7,021 |
| TEXAS | 1,862 | 1,085 | 769 | 833 | 900 |
| UTAH | 1,229 | 1,546 | 1,669 | 1,418 | 1,103 |
| VERMONT | 234 | 349 | 379 | 388 | 688 |
| VIRGIN ISLANDS | 22 | 104 | 15 | 146 | 106 |
| VIRGINIA | 2,463 | 2,351 | 1,990 | 1,962 | 2,039 |
| WASHINGTON | 1,474 | 1,700 | 1,905 | 2,187 | 2,018 |
| WEST VIRGINIA | 521 | 467 | 378 | 223 | 194 |
| WISCONSIN | 5,025 | 5,688 | 6,895 | 7,384 | 7,812 |
| WYOMING | 108 | 66 | 32 | 210 | 113 |
| NATIONWIDE TOTALS | 172,767 | 208,270 | 219,360 | 231,838 | 244,996 |

SOURCE: FORM OCSE-56, LINE 7 (A+B+C)

nchs MONTHLY VITAL STATISTICS REPORT

**Final Data** From the National Center for Health Statistics Vol. 36, No. 4, Supplement • July 17, 1987

Vital Statistics of the United States
Vol 1 Natality

HE 20.6226 [illegible]
HE 20.6226 [illegible]

# Advance Report of Final Natality Statistics, 1985

## Births and birth rates

There were 3,760,561 registered live births in the United States during 1985, 2 percent more than the number reported in 1984 (3,669,141) (table 1). Provisional estimates for 1986, however, indicate a 1-percent decline from the final total for 1985.

The birth rate in 1985 was 15.8 live births per 1,000 total population, 2 percent higher than the rate for 1984 (15.5). A 2-percent decline in the birth rate is likely for 1986 according to provisional data.

The fertility rate, a measure that relates the number of births to women of childbearing age, increased 1 percent between 1984 and 1985. The rate for 1985 was 66.2 live births per 1,000 women aged 15–44 years, compared with 65.4 in 1984 (table 1 and figure 1). Provisional estimates for 1986 suggest a 2-percent reduction in the fertility rate.

After several years during which increases in birth rates were limited generally to women aged 30 years and over, increases between 1984 and 1985 were fairly widespread. They ranged from 1 percent for teenagers to 5 percent for women aged 35–39 years. Rates for women aged 20–24 and 25–29 years increased 2 percent between 1984 and 1985; they had fallen by 4–7 percent during the years 1980–84. The rate for teenagers was 51.3 in 1985; it has fluctuated within a narrow range of 50.9–53.0 since 1976. The rates for women in their thirties continued to rise in 1985, following a course that has been observed since the mid 1970's. The rate for women aged 30–34 years was 68.5, the highest level it has been since 1970 (73.3), while the rate for women aged 35–39 years reached 23.9 in 1985, higher than it has been since 1972 (24.8). (See figure 2 for birth rates by age of mother and tables 2–4 for births and birth rates by age of mother.)

Teenage mothers continued to account for a relatively small proportion of all births, 13 percent in 1985 as in 1984. This fraction has been low in recent years for two reasons: The teenage birth rate has changed very little since 1976 and the number of teenage women declined 14 percent between 1976 and 1985.

Mothers aged 30 years and over in 1985 accounted for 1 in 4 births, the highest fraction since 1964. Two factors explain the growth in this proportion since the mid 1970's—the steady increases (26–28 percent) since 1976 in birth rates for women in age groups 30–34 and 35–39 years and the sizable growth (43 percent) in the number of women in these age groups. Women aged 30–39 years in 1985 were born during the baby boom years of 1946–55.

Birth rates for all birth orders through the fourth child increased in 1985 by 1 to 3 percent. While the rate for second order births increased 1 percent between 1983 and 1984, rates for first, third, and fourth order births had been unchanged or had declined between 1980 and 1984. Rates for fifth and higher order births have changed little since 1980 (table 5 and figure 3).

First birth rates increased for all age groups through 35–39 years. The rate increased by 1 percent for women aged 15–19 and 20–24 years, by 2 percent for ages 25–29, by 4 percent for ages 30–34, and by 7 percent for ages 35–39 years. Rates for women aged 40 years and over were unchanged.

During the past several years, first birth rates for women in the younger ages of the childbearing period had declined or increased very little, while rates for women in their thirties increased consistently and substantially in each year. For example, the first birth rate for women aged 20–24 years declined 7 percent from 1980 to 1985, while the rates for women aged 30–34 and 35–39 years increased 32 percent and 69 percent, respectively. Although the making up of delayed childbearing continued in 1985, the rate of increase for women in their thirties appears to have slowed compared with earlier years. However, as in several previous years, first birth rates in 1985 increased much more for women aged 35–39 than for those aged 30–34 years, indicating that the tendency for some women to delay motherhood has been protracted.

Women have been delaying marriage and motherhood since the early 1970's, as described elsewhere.[1] Consequently,

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Public Health Service

**Table 16. Number and percent of births of low birth weight and number and ratio of births to unmarried women, by race of child: United States and each State, 1985**

[By place of residence]

| State | Low birth weight[1] |  |  |  |  |  | Births to unmarried women |  |  |  |  |  |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
|  | Number |  |  | Percent |  |  | Number |  |  | Ratio per 1,000 live births |  |  |
|  | All races[2] | White | Black | All races[2] | White | Black | All races[2] | White | Black | All races[2] | White | Black |
| United States | 253,554 | 168,390 | 75,414 | 6.8 | 5.6 | 12.4 | 828,174 | 432,969 | 365,527 | 220.2 | 144.7 | 601.0 |
| Alabama | 4,799 | 2,333 | 2,427 | 8.0 | 6.0 | 12.0 | 14,897 | 3,155 | 11,707 | 249.4 | 80.7 | 579.3 |
| Alaska | 622 | 402 | 62 | 4.9 | 4.5 | 10.6 | 2,344 | 1,029 | 156 | 182.5 | 113.4 | 267.1 |
| Arizona | 3,684 | 2,951 | 320 | 6.2 | 5.9 | 12.4 | 14,172 | 9,739 | 1,355 | 238.8 | 195.7 | 523.8 |
| Arkansas | 2,816 | 1,750 | 1,030 | 8.0 | 5.6 | 12.5 | 7,898 | 2,806 | 5,053 | 224.2 | 105.6 | 612.9 |
| California[3] | 28,354 | 19,648 | 5,518 | 6.0 | 5.3 | 11.9 | 115,671 | 82,813 | 26,044 | 245.6 | 223.3 | 561.6 |
| Colorado | 4,252 | 3,725 | 370 | 7.7 | 7.4 | 13.1 | 9,158 | 7,688 | 1,241 | 166.1 | 152.2 | 438.4 |
| Connecticut[3] | 2,914 | 2,146 | 720 | 6.6 | 5.7 | 13.5 | 9,358 | 5,743 | 3,502 | 212.7 | 151.5 | 653.2 |
| Delaware | 706 | 418 | 279 | 7.3 | 5.7 | 12.9 | 2,522 | 1,041 | 1,474 | 262.2 | 142.2 | 678.9 |
| District of Columbia | 1,306 | 91 | 1,193 | 13.3 | 5.2 | 15.3 | 5,598 | 285 | 5,228 | 567.2 | 162.6 | 670.9 |
| Florida | 12,344 | 7,311 | 4,889 | 7.5 | 6.0 | 12.4 | 42,202 | 16,916 | 25,080 | 257.6 | 138.5 | 633.2 |
| Georgia | 7,766 | 3,793 | 3,893 | 8.1 | 6.1 | 11.7 | 24,764 | 5,730 | 18,946 | 257.0 | 92.5 | 570.2 |
| Hawaii | 1,184 | 243 | 85 | 6.5 | 5.2 | 9.5 | 3,644 | 582 | 114 | 199.0 | 125.4 | 126.9 |
| Idaho | 971 | 922 | 7 | 5.5 | 5.5 | 7.3 | 1,893 | 1,729 | 24 | 107.8 | 102.4 | 250.0 |
| Illinois | 12,942 | 7,498 | 5,236 | 7.2 | 5.4 | 13.5 | 46,495 | 18,390 | 27,796 | 257.3 | 132.7 | 718.4 |
| Indiana | 5,182 | 4,135 | 995 | 6.4 | 5.8 | 11.7 | 16,020 | 10,224 | 5,734 | 197.9 | 142.6 | 671.9 |
| Iowa | 2,122 | 1,982 | 108 | 5.1 | 5.0 | 10.2 | 5,590 | 4,827 | 656 | 135.6 | 122.0 | 618.3 |
| Kansas | 2,430 | 1,945 | 394 | 6.1 | 5.5 | 12.1 | 5,843 | 3,932 | 1,713 | 147.3 | 111.6 | 524.7 |
| Kentucky | 3,723 | 3,117 | 584 | 7.0 | 6.5 | 12.2 | 9,799 | 6,841 | 2,947 | 185.3 | 143.3 | 617.2 |
| Louisiana | 7,068 | 2,843 | 4,122 | 8.7 | 5.9 | 13.1 | 23,261 | 4,845 | 18,274 | 285.6 | 99.8 | 580.8 |
| Maine | 866 | 840 | 9 | 5.1 | 5.1 | 10.8 | 3,012 | 2,928 | 14 | 178.2 | 176.5 | 168.7 |
| Maryland[3] | 5,174 | 2,462 | 2,553 | 7.6 | 5.4 | 12.5 | 19,773 | 6,690 | 12,687 | 290.7 | 147.7 | 621.4 |
| Massachusetts | 4,741 | 4,006 | 626 | 5.8 | 5.4 | 10.3 | 15,033 | 11,333 | 3,435 | 183.8 | 154.0 | 566.1 |
| Michigan[3] | 9,357 | 6,154 | 3,071 | 6.8 | 5.4 | 13.6 | 24,941 | 12,003 | 12,723 | 180.7 | 106.2 | 561.2 |
| Minnesota | 3,217 | 2,832 | 196 | 4.8 | 4.6 | 9.8 | 10,158 | 7,730 | 1,284 | 150.7 | 124.0 | 641.4 |
| Mississippi | 3,828 | 1,362 | 2,448 | 8.8 | 5.9 | 12.2 | 14,275 | 1,953 | 12,210 | 328.5 | 85.1 | 609.6 |
| Missouri | 5,180 | 3,575 | 1,539 | 6.7 | 5.6 | 12.9 | 16,599 | 8,239 | 8,278 | 215.6 | 128.6 | 692.7 |
| Montana[3] | 764 | 664 | 3 | 5.7 | 5.6 | 3.9 | 2,270 | 1,462 | 19 | 168.2 | 123.5 | 250.0 |
| Nebraska | 1,356 | 1,155 | 163 | 5.3 | 4.9 | 12.0 | 3,790 | 2,722 | 839 | 148.3 | 115.6 | 617.8 |
| Nevada[3] | 1,055 | 762 | 190 | 6.9 | 6.1 | 12.3 | 2,398 | 1,429 | 806 | 156.5 | 113.4 | 522.0 |
| New Hampshire | 771 | 753 | 11 | 5.0 | 5.0 | 8.2 | 2,065 | 2,018 | 33 | 133.8 | 133.2 | 246.3 |
| New Jersey | 7,224 | 4,515 | 2,512 | 6.8 | 5.5 | 12.2 | 23,495 | 10,587 | 12,677 | 222.6 | 129.5 | 616.5 |
| New Mexico | 1,935 | 1,645 | 72 | 7.1 | 7.3 | 10.5 | 7,298 | 5,056 | 262 | 262.9 | 221.0 | 377.5 |
| New York[3] | 18,087 | 10,755 | 6,833 | 7.0 | 5.6 | 11.9 | 72,839 | 36,095 | 35,757 | 280.7 | 187.1 | 622.0 |
| North Carolina | 7,044 | 3,679 | 3,198 | 7.9 | 6.0 | 12.7 | 19,772 | 5,447 | 13,757 | 221.2 | 88.2 | 545.5 |
| North Dakota | 572 | 506 | 10 | 4.9 | 4.8 | 6.9 | 1,347 | 900 | 10 | 114.9 | 84.8 | 69.4 |
| Ohio[3] | 10,583 | 7,754 | 2,745 | 6.6 | 5.7 | 11.9 | 34,922 | 19,430 | 15,299 | 217.6 | 143.2 | 664.2 |
| Oklahoma | 3,413 | 2,457 | 636 | 6.4 | 5.9 | 12.0 | 9,149 | 4,985 | 2,840 | 172.2 | 119.1 | 536.0 |
| Oregon | 2,022 | 1,805 | 114 | 5.1 | 4.9 | 11.6 | 7,403 | 6,444 | 548 | 187.5 | 176.1 | 558.6 |
| Pennsylvania | 10,600 | 7,481 | 2,987 | 6.6 | 5.5 | 13.4 | 36,546 | 20,211 | 16,088 | 227.7 | 148.5 | 720.2 |
| Rhode Island | 821 | 691 | 100 | 6.3 | 5.9 | 10.7 | 2,549 | 1,931 | 539 | 195.6 | 165.2 | 576.5 |
| South Carolina | 4,462 | 1,859 | 2,575 | 8.6 | 5.9 | 13.0 | 13,714 | 2,956 | 10,730 | 264.2 | 93.6 | 540.3 |
| South Dakota | 665 | 524 | 11 | 5.5 | 5.2 | 10.7 | 2,175 | 1,073 | 16 | 179.3 | 106.0 | 155.3 |
| Tennessee | 5,251 | 3,261 | 1,96[illegible] | 7.9 | 6.4 | 12.9 | 16,214 | 6,252 | 9,926 | 242.9 | 122.5 | 653.8 |
| Texas[3] | 20,886 | 15,411 | 5,059 | 6.8 | 5.9 | 12.2 | 50,445 | 30,087 | 20,020 | 163.7 | 115.7 | 481.7 |
| Utah | 2,125 | 1,995 | 31 | 5.7 | 5.6 | 10.4 | 3,259 | 2,843 | 124 | 87.0 | 80.1 | 414.7 |
| Vermont | 477 | 474 | 2 | 6.0 | 6.0 | 9.1 | 1,378 | 1,364 | 7 | 171.5 | 171.1 | 318.2 |
| Virginia | 5,987 | 3,501 | 2,347 | 7.0 | 5.5 | 11.5 | 18,443 | 6,779 | 11,461 | 214.3 | 107.3 | 562.7 |
| Washington | 3,689 | 3,038 | 341 | 5.3 | 5.0 | 10.5 | 12,978 | 10,162 | 1,449 | 184.8 | 165.3 | 446.4 |
| West Virginia | 1,660 | 1,540 | 113 | 6.9 | 6.7 | 11.7 | 4,202 | 3,675 | 522 | 174.1 | 159.5 | 538.7 |
| Wisconsin | 3,895 | 3,056 | 717 | 5.3 | 4.6 | 12.6 | 13,359 | 8,787 | 4,082 | 181.2 | 133.2 | 719.0 |
| Wyoming | 662 | 625 | 10 | 7.1 | 7.1 | 9.9 | 1,244 | 1,083 | 41 | 132.8 | 122.5 | 405.9 |

[1] Less than 2,500 grams (5 pounds 8 ounces)

[2] Includes races other than white and black.

[3] Marital status of mother is inferred. see Technical notes.

Mr. **Williams**. I think it does raise some issues. I do not know what the target levels should be, by the way. I do not think anybody does. But the reason I suggest that is both to get a better performance standard than what is laid out in H.R. 1720, and also to try to get agencies to focus beyond AFDC-related cases, which I think is going to be the thrust of what is going to happen if you go with an AFDC-based standard.

The non-AFDC, out-of-wedlock birth situations are obviously ones with very high risks of coming on to AFDC and they are also most likely to have limited incomes. I think that agencies now have enough trouble establishing paternities for AFDC-related cases, but there is a need to try to expand their thinking a little bit to try to get some outreach going for those cases.

Mrs. **Kennelly**. Now, you said you could get the information with a phone call. We are seeing that there is a reluctance on the part of the State to gather this data. Do you think in fact Congress could get the States to do it? And how do we do it better than we are doing it right now, if you think that the data is there?

Mr. **Williams**. Well, I think that most health departments, or wherever vital statistics agencies are located, have that data. I have just had the practical experience in two States.

Mrs. **Kennelly**. But what we have got to do is figure out why they do not pick the phone up, as you said it could be done.

Mr. **Williams**. Yes. I think it is a matter of focus and what they are required to do. I do not think that that is something that is their orientation now. Their orientation is what the law sets as the parameters for the IV-D cases, not the whole child support problem.

Mrs. **Kennelly**. Thank you very much, Mr. Williams.

Acting Chairman **Downey**. I want to thank the members of the panel for their testimony today.

If I could ask all members to summarize, their statements will be placed in the record in their entirety.

We will next hear from Laurie J. Bassi, assistant professor, Department of Economics, Georgetown University; Irwin Garfinkel, University of Wisconsin, Institute of Research on Poverty; and Robert I. Lerman, Heller School, Brandeis University.

Professor Bassi, if you would start.

## STATEMENT OF LAURIE J. BASSI, PH.D., ASSISTANT PROFESSOR, DEPARTMENT OF ECONOMICS, GEORGETOWN UNIVERSITY

Ms. **Bassi**. I am Laurie Bassi from the Department of Economics at Georgetown University. For several years now, I have been examining the causal forces behind poverty rates, changes in poverty rates.

You do not have to have a Ph.D., and you do not have to spend several years on research to realize that the fundamental problem is a change in family structure.

It's a fundamental problem which is not going to correct itself anytime in the near term.

Just to summarize very quickly, we can see that while divorce rates have stabilized somewhat, marriage rates continue to decline. While fertility rates remain at a low level by historic standards, the continuing decline in marriage rates means that an increasing percentage of children are born out of wedlock, and therefore, are very likely to be born into poverty.

So this increasing percentage of children born out of wedlock means that the percentage of poverty borne by children can be expected to continue to rise in the near term.

Children's poverty is correlated with lower educational levels, and therefore, reduced earnings levels, when these children become adults.

All of these statistics and trends, which are likely to continue in the future, do not bode well for our ability to compete in the world.

Where to go from here? I can only endorse what Mr. Hedgespeth has already said. Despite the fact that my students claim I'm a flaming liberal, I certainly am not on this issue.

We need to get very, very serious about these matters. I think there are some short term solutions that can make it easier for custodial parents who already have a child support award. Maybe one change that could be made, at the margin, would be to make noncustodial parents who are in arrears on their payments pay all legal costs and court costs incurred in collecting those arrearages.

That would eliminate the incentives that are now built into the system for foot-dragging and legal maneuvering on the part of noncustodial parents.

That, however, would only improve the situation for people who already have awards. For those custodial parents—over 40 percent—who cannot afford to participate in the court system to get the awards in the first place, these marginal changes, however, will not improve their lot.

I think ultimately the child support system must be removed from the courts and put into a quasi-judicial setting, since far too many parents simply cannot participate in the court system because of cost.

Along with moving child support out of the court system, we must have, as has already been said any number of times, consistent guidelines which are used on a consistent basis.

Automatic withholding obviously would help tremendously.

But along with all of this, if we're very serious about noncustodial parents paying, we have to recognize that systems have to be in place for those parents who truly are unable to pay.

That means that the Government must ultimately become the employer of last resort.

This would take dramatic change; many of the necessary changes are outside the bounds of the existing system. But even if we did all of this I think that we would still have a very, very serious problem with childhood poverty rates.

I think we would be lucky if we could bring childhood poverty rates down by 25 percent. Perhaps we could go as high as 30 or 40 percent. But something else is going to be needed in addition to all these dramatic changes in order to improve the well-being of children.

Ultimately, the Government will need to become the child support provider of last resort. Some of the savings that could be generated under a more effective collection system, where the first line of defense for children is always their parents, which could then be used to supplement the child support payments coming from parents.

So perhaps we could combine some of these suggestions with the suggestions that were made by the attorney general from Texas. If the moneys that the State save through enforcement could be kept within the State system, and not be allowed to be used for highways or whatever it is that the States are using these moneys for, perhaps we could then improve the lot of many children who will still be left below the poverty line.

The rest of my thoughts are in my written testimony.

[The prepared statement of Ms. Bassi follows:]

## STATEMENT OF DR. LAURIE J. BASSI, ASSISTANT PROFESSOR, DEPARTMENT OF ECONOMICS, GEORGETOWN UNIVERSITY

Good morning and thank you for inviting me to testify at these hearings. I am Laurie Bassi, an assistant professor in the Department of Economics at Georgetown University. My research interests are primarily in labor economics, with an emphasis on the effects of government intervention on the behavior, and well-being, of economically disadvantaged individuals. For the past few years, my research has focused on sorting out the causal forces behind the trends in poverty rates. The testimony that I have prepared summarizes some of the trends that are relevant to these hearings, offers my interpretation of these trends, speculates on how the trends will develop in the future, and suggests a course of action.[1]

## Trends In The Data

Progress on reducing poverty has continued to elude us for fifteen years now. Substantial progress was made between 1959 and 1973, with overall poverty rates falling from 22.4% to 11.1%. However, since that time the general trend (after removing cyclical variation) in poverty has been an upward one. In 1986, the poverty rate stood at 13.6%.

Some of the major obstacles that have prevented us from reducing poverty include: a slowdown in the growth rate of productivity, OPEC price shocks, and a huge influx of the baby boom into the work force. There is, however, another profound change that has contributed to the persistence of poverty — that is the dramatic increase in the prevalence of female headed households.

It is this change in family structure that has been the major force behind differential time trends in poverty rates by age and gender. Men have enjoyed the largest reductions in poverty; between 1959 and 1985, their poverty rates fell by 48%. Women's poverty rates have fallen by 37%, and children's poverty rates have fallen by only 25%.

The differences in these trends have given rise to the coining of a phrase, the "feminization of poverty", that is shorthand for describing the disproportionate share of poverty that falls on women and children. While they are 64% of the population, they are 77% of the poor.

A more detailed analysis of the trends reveals, however, that amongst those affected by the feminization of poverty (women and children), there have been differences within the two groups over time. Women's economic position relative to that of men's, has actually improved (albeit only be a modest amount) since 1973. Children's economic well-being relative to that of men's, however, has continued to deteriorate. The conjunction of these trends means that women without children have moved up the economic ladder, while women with children continue their descent down the ladder.

The decline in the relative economic well-being of women with children has, paradoxically, taken place simultaneously with a huge increase in the number of these women who are in the labor force. In 1959, approximately 28% of women with children participated in the labor force; women's poverty rates were [illegible]3% higher than were men's, and children's poverty rates were 51% higher than were men's. By 1985, 63% of women with children participated in the labor force; their poverty rates were 51% greater than men's, and children's poverty rates were 121% higher than men's.

## Interpretation Of The Time Trends

How is it that increases in women's labor force participation and earnings have left women and their children relatively worse off financially? The answer is simple. While increased labor force participation has improved the financial well-being of married women, and of those women who already head their own households, it has been accompanied by a dramatic increase in the number of households headed by women (who are disproportionately likely to be poor). The anti-poverty impact of the first phenomenon has been swamped by the poverty-creating impact of the second.

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[1] My statements here today draw heavily on an editorial of mine that appeared in the Wall Street Journal on February 17, 1988.

The logical next question then is, why are the earnings gains that come from increased labor force participation accompanied by a decrease in the probability that a woman will be married? Sorting out causality is difficult. The answer could be that increases in a women's paid employment increase the probability that she will divorce, separate, or never marry in the first place. Or the answer could be that increases in the probability of divorce have caused women to increase their labor market activity (perhaps both before and after the divorce actually takes place).

For the purpose of finding a solution to the feminization of poverty, however, the cause is remarkably unimportant. Let's, for the moment, assume that increases in women's labor force participation and earnings have caused the increase in the predominance of female headed households. What could we reasonable conclude from this?

If married women have used their increased earnings to buy their way out of marriage, presumably they have done so with the best interests of themselves, and their children in mind. Ultimately, some women may be forced to trade off financial well-being for the emotional well-being of themselves, and their children. In cases where abuse is involved, their physical well-being may be at stake, as well.

This step creates two households where there used to be one, and it is typically the case that one of them (the one headed by the man) is left far better off financially. There are three reasons why this is so. First, men typically have substantially higher wages than do women. Second, women usually have custody of the children. And finally, in the majority of cases (63% in 1985), no child support payments are made by the noncustodial parent to the custodial parent.

This means that the financial burden of providing for children generally falls on the parent least able to afford it. This situation is unjust for women, but the real brunt of the injustice is borne by children. It is clear that we as a society must move in the direction of making noncustodial parents much more responsible for their offspring.

But what if we've got the causality wrong? What if increases in women's paid employment do not cause divorce, but instead divorce causes the increase in women's paid employment? The limited scholarly work that has been done on this issue indicates that this is, in fact, the more likely explanation. Then the argument for aggressively increasing child support awards, amounts, and enforcement, is even stronger.

If women are increasing their labor force participation in response to marital disruption and still are unable to achieve a decent standard of living for themselves and their children, then clearly the fathers of these children are not fulfilling their obligations. If they will not do so voluntarily, then they must be made to do so legally.

But what about noncustodial parents who do not have the means to support their children? Teenage fathers, in particular, usually cannot afford to keep their children out of poverty, even if they pay a generous percentage of their incomes in child support. Nevertheless, they will not be teenagers for long. And if young men knew that they were going to be held accountable for the financial security of the children that they produce, it is likely that there would be a decline in the number of children born out-of-wedlock, and into poverty.

## Expectations About Future Trends

Without corrective action, there is no reason to expect that these trends, or their implications, will improve substantially in the future. While divorce rates have stabilized in the past few years, marriage rates continue to decline. And while fertility rates remain low by historic standards, the declining probability that a woman is married means that the percentage of children who are born out of wedlock, continues to rise.

All of these phenomena together indicate that unless corrective actions are pursued, we should expect that the percentage of poverty that falls upon this nation's children will continue to increase, even if there are substantial improvements in the macroeconomic environment. This does not bode well for the future.

Substantial amounts of research have been done on the long-term effects of being raised in a single parent household. While there is much controversy in this literature, one finding has emerged over and over again; many of the detrimental effects of having only one parent can be ameliorated, if the custodial parent has sufficient income. In other words, being raised in a single parent family, per se, does not necessarily reduce the educational or future earnings achievements of children. What does consistently have a detrimental effect on these outcomes, however, is the inadequate income level that all too often accompanies being a single parent.

The good news here is that while we as a society do not have the means to affect the number of children who live in single parent families (at least through standard forms of intervention), we do have the means to affect the income levels in these households, thereby relieving the most harmful effects of being raised with only one parent.

The bad news is that we are doing far too little to improve the financial condition of the children who are living in these households. By continuing to allow noncustodial parents to shirk the responsibility that their children represent, we create a burden for the rest of society. In the short run, many children are added to the welfare rolls. In the long run, we will be left with a nation that is much less productive than it would have been had its children been raised with adequate resources.

There is already ample evidence that a nontrivial percentage of our work force has inadequate educational achievement to deal with the automation that is sweeping though the work place. And this is even before the huge numbers of children who are now being raised in single parent households have entered the labor force in large numbers. As these young people become an ever-increasing percentage of the work force, we have every reason to expect that our productivity will be hard hit. The long term implications for our ability to compete in an increasingly competitive, and technologically sophisticated world, are bleak.

## Where To Go From Here

The 1984 Child Support Amendments represent a step in the right direction. They are, however, only a first step. It is now time to proceed, as quickly as is legislatively possible, on an aggressive course of action to correct the fundamental problems that underlie our current inability to reduce poverty among children.

An interim step in this direction would be to take legislative action to guarantee that in the 59% of cases where child support awards exist, that these awards are paid in full. Legislation should be implemented requiring noncustodial parents who are in arrears on their child support payments to pay interest on the amount of the default, all legal fees, and court costs incurred by the custodial parent in an effort to have the award enforced. As it now stands, such payment is entirely up to the judge's discretion. This puts custodial parents in triple jeopardy. They have already been moved down the economic ladder through divorce. They have had to pay a lawyer to win a child support award for them. And they must incur additional legal fees with money they often don't have to get what a court has already decreed is their legal right. Such a system creates enormous incentives for noncustodial parents to engage in foot-dragging, and prolonged and expensive legal maneuvering.

The long-term solution to these problems, however, requires much more fundamental change. We must create a system where child support is a legal obligation of all parents, whether or not they are living with their children, and whether or not they have been dragged through court. Child support must cease to be a (sometimes meager) concession that custodial parents win only after hiring an attorney to fight their battle in court.

The court system should be replaced with an quasi-judicial system whereby child support payments are automatically determined as a percentage of the absent parent's income. The awards must be consistent, fair, and automatically adjusted for inflation.

Automatic payroll deduction should be another feature of this system so that awards get translated into hard cash, without the long administrative and legal delays that now occur when the noncustodial parent is in default. Automatic deductions would, in most cases, assure that defaults don't take place in the first place. They would also reduce the stigma that is now associated with payroll deduction. If it became a requirement of the system for everyone, it would not be stigmatizing to anyone.

In cases where the noncustodial parent is unable to fulfill the obligations of the award (because of unemployment or inadequate income for those who are self-employed), the government must become the employer of last resort. Parents who refuse to comply should expect a jail sentence.

In other cases, it will be necessary to establish paternity. We have both the legal, and the technological ability, to do so. Large scale implementation of blood tests to establish paternity will, undeniably, cost taxpayers in the short-run. But it could certainly save taxpayers a great deal more in the long-run. A fund would need to be set up in the beginning to pay for blood tests in cases where paternity is disputed. There is every reason to expect, however, that such a fund would quite quickly become self-financing.

These solutions may sound harsh, but so too is the current reality that they are designed to address. Noncustodial parents have a fundamental responsibility to their children. We as a society have for too long, allowed too many of these parents to avoid this responsibility. Our refusal to confront this problem head-on has, in many cases, shifted the burden of financial responsibility from a parent to the government. We must once again return to a world where parents are always the first line of defense for their children's financial security. The government can then return to a more appropriate role, that of the provider of last resort.

This, of course, would not eliminate all poverty among children. It could, however, make a big dent, perhaps reducing it by as much as 25 - 40%. And it would translate into very substantial gains for many children who are currently living only marginally above the poverty line. These gains would ultimately generate a more educated, and able work force, which would be a benefit to all of us.

By returning child support to its rightful owners (the parents), we will in many cases be able to move children off of the welfare rolls. This would release resources to provide additional assistance to those children who still remain in poverty. Child support allowances could be used by the government to fill the poverty gap in cases where private child support is inadequate. Work requirements should be attached to receipt of such payments. These steps would move us away from the current welfare system which has virtually no supporters, and move us toward a sensible family policy, that is much needed and has the potential for widespread support.

I urge you to think seriously about action that would bring about fundamental change. Small changes, at the margin, and within the existing system, will result (at best) only in marginal improvements. The system that we have in place was never intended to deal with the magnitude of the problem that we have on our hands. Over 40% of custodial parents, who do not have the resources to enter the court system, are left without any possibility of financial relief for themselves or their children. We must replace this unjust and antiquated system with one that is designed to handle the modern day reality of the single parent family. Hiding our heads in the sand will not make the problem go away.

Thank you for this opportunity. I would be happy to answer any questions you might have.

Acting Chairman DOWNEY. Thank you, Ms. Bassi.

Mr. Garfinkel.

## STATEMENT OF IRWIN GARFINKEL, RESEARCH FELLOW, INSTITUTE FOR RESEARCH ON POVERTY, UNIVERSITY OF WISCONSIN

Mr. GARFINKEL. Mr. Chairman and other committee members, thank you for inviting me to testify.

I am a social worker and an economist, and the Edwin E. Witte professor of social work and research fellow at the Institute for Research on Poverty at the University of Wisconsin.

And I have worked with the State of Wisconsin for the last 10 years in bringing to fruition a child support assurance system in that State.

I have a written statement that I wish to submit for the record, and will simply have a brief summary of that.

Acting Chairman DOWNEY. Thank you. Without objection, all your statements will be placed in the record in their entirety.

Mr. GARFINKEL. My message today is simple. The Congress and the President are moving in the right direction on child support.

There are details in the House, the Senate, and the administration bills that I would quibble with. But the overall direction is correct.

We, along with the other Western industrialized nations are moving ever so slowly and unevenly toward a new child support assurance system.

The philosophy of a child support assurance system is equally simple. Noncustodial parents are responsible for sharing income with their children, and the Government is responsible for assuring that children receive no less than that to which they are legally entitled.

A child support assurance system has only three essential components. First, a legislated child support standard determines how much of their income noncustodial parents are required to share with their children.

Second, the resulting child support obligation is withheld from wages and other sources of income in all cases from the outset just like income and payroll taxes.

Third, the Government pays the custodial parent the income to which the child is entitled, but no less than a socially assured minimum benefit.

All three features of a child support assurance system have already emerged in several of the Western industrialized nations. In some respects we lead the world.

I encourage the Congress to cautiously hasten the transition to a fullfledged child support system.

My written testimony discusses computerization, paternity establishment, child support standards, immediate withholding, and the assured child support benefits.

My oral comments on computerization are short. I don't understand why it's taking so long.

My comments on immediate withholding are equally short. Requiring the States to adopt immediate withholding in all cases, not just IV-D cases, is a sensible next step.

And let me add that I agree with Attorney General Mattox that Congress should mandate that all States monitor all child support cases.

Wisconsin and I believe only six other States, including Michigan and Texas, currently do that. Most of the States have required all child support payments to be made to a government agency for about 60 years. It is about time the whole country does that.

With respect to establishing paternity, special incentives for States, for custodial mothers, and for noncustodial fathers are necessary.

Let me explain. We have made notable but insufficient progress. It is still the exception rather than the rule for paternity to be established. We must change that.

Doing so is possible, although initially it will be costly. The overwhelming majority of never-married mothers know who the fathers of their children are. Very few of these mothers are promiscuous. In fact, the idea that they are has a tinge of racism about it.

But when most fathers escape without much effort, there is a great incentive for them to deny paternity and be difficult to locate, and little incentive for the mothers or public officials to pursue the matter.

Location and blood testing are relatively expensive—and I emphasize relatively; not absolutely—and these cases have the least ability to pay. And that is why we need special incentives for the States, the custodial mothers, and the noncustodial fathers to pursue paternity.

With respect to child support standards, it may be desirable at some time in the future for Congress to legislate a child support standard, but doing so now would be premature.

The Wisconsin standard is a good one, I humbly say, but far from perfect. Indeed, no child support standard will ever be perfect.

State experience will help forge a national consensus on what are the best compromises amongst conflicting irreconcilable objectives.

In the meantime, Congressional proposals to require the States to make their guidelines rebuttal presumptions, and to update awards at least every other year are also sensible steps in the right direction.

Several States have already made their guidelines rebuttal presumptions. How to update awards, however, is a key issue that remains to be resolved.

With respect to the assured benefit, my written testimony explains how this essential feature of a child support assurance system: one, provides insurance for children from middle and upper income families against the hazard that their noncustodial parents suffer a sudden drop in income; two, helps children from low income families escape poverty and welfare dependence; and three, creates an incentive for custodial mothers and State bureaucrats to locate noncustodial fathers and establish paternity.

In my oral comments this morning I will focus on the effects of the assured benefit on paternity establishment and welfare dependence. And here I want to harken back to the issue that Representative Roukema, and Attorney General Mattox raised as to what to do with the savings from AFDC that result from increased child support collections.

And I would like to go beyond what Attorney General Mattox said. Not only should the States not be allowed to use these AFDC savings for purposes other than child support, but neither should the Federal Government.

The reason is, if you take the savings from AFDC that result from child support increases and put them into something else, even good other things, you won't get continued increases in child support collections. And let me explain.

I disagree entirely with Wayne Stanton's statement that 90 percent of dependency is a function of the failure to enforce child support. The numbers don't support that.

If we enforced child support awards in 100 percent of the cases and collected 100 percent of what was owed at the Wisconsin standard, we would still have 75 percent of the AFDC national welfare case load.

I don't know where that 90 percent figure comes from. It is very misleading.

So I believe that child care is essential. I believe training is essential. But you should not spend this AFDC savings from child support on child care or on training. And the reason is, because it's inappropriate to condition the receipt of child care, or the receipt of training, on having a child support award.

However, conditioning an assured child support benefit on legal entitlement to child support is essential to retain the integrity of that program. You must insist, to get an assured benefit, that there be a child support award.

So there is a natural linkage to say you can't get the assured benefit, which is a benefit outside welfare, unless you have a child support award.

That creates an incentive for custodial parents to get a child support award. If they want to have a dignified life off welfare, the route is, get a child support award.

But you can't do that with training or with child care.

Now, the next question is, do we create that incentive inside welfare or outside welfare? The current situation is, the Congress requires all the States to share the savings, a bit of it, with AFDC recipients, by ignoring the first $50 per month of child support that is received, when we calculate the AFDC benefit.

The Congress has allowed only two States, Wisconsin and New York, to take the savings that come out of increased child support collections and put it right back into the system in the form of an assured child support benefit.

Which way is preferable? Using the savings within welfare in a child support set-aside? Or taking the savings and creating a child support assured benefit outside welfare?

If you want to reduce the extreme dependence that is endemic to AFDC, the answer is very clear: Do it outside welfare. A child support set aside within welfare will increase welfare caseloads. An assured child support benefit outside welfare will decrease welfare caseloads.

I recommend that the Congress eliminate the $50 set-aside within welfare, or at least make it temporary, and take every dollar you save and put it into a very small assured benefit.

You will reduce poverty as much and you will reduce welfare dependence much more.

In my written testimony I give a list of ways that you can approach an assured benefit in small steps. I believe the Congress should go small and cautious in this area. But rather than summarize that, I want to conclude my oral testimony by dealing with a question I'm asked every time I talk about child support assurance.

The question is: "Isn't the child support assurance system just welfare by another name? And the answer is, no, it is not.

To those who say, "isn't child support assurance welfare only by another name," I would ask, "is survivor's insurance just welfare by another name"?

The architects of our Social Security system did not believe that. Edwin Witte was one of these architects of the Social Security Act. My chair at Wisconsin bears his name. So I've studied what Witte and his colleagues had in mind when they created the Social Security system.

Even as they created the aid to dependent children program, they feared the effects of long term welfare dependence. They said, "A democratic society has an immeasurable stake in avoiding the growth of a habit of dependence among its youth."

So they urged adoption of a survivors' insurance program, which required workers to insure themselves and their children in order to sustain, and I quote again, "the concept that a child is supported through the efforts of the parent." Congress responded by creating a survivor's insurance program in 1938, and today most widows with children avoid welfare dependence and can honestly tell their children that the survivor's insurance benefits they receive are attributable to the efforts of their deceased father.

Like the survivors' insurance system, a child support assurance system is based on the widely accepted concepts that to parent a child is to incur a responsibility to support the child, and that it is the government's responsibility to assure that children receive the support to which they are entitled.

Thank you.

[The prepared statement of Mr. Garfinkel follows:]

Testimony, March 2, 1988 at
Hearings on the Child Support Enforcement Program
Subcommittee on Public Assistance and Unemployment Compensation
Committee on Ways and Means, U.S. House of Represtentatives
by Irv Garfinkel

Mr. Chairman and committee members, thank you for inviting me to testify. I am the Edwin E. Witte Professor of Social Work at the University of Wisconsin. For nearly 20 years, I have had the privilege of working at the Institute for Research on Poverty where I have studied our welfare and child support institutions and collaborated with state government officials in designing and implementing a new child support assurance system. My testimony today is divided into five sections. I begin by placing child support within the broader context of trends in divorce and welfare. The second and third sections describe the weaknesses and changes in the private and public parts of the US child support system. The fourth section describes the new child support assurance system towards which we and other countries are tending. The fifth and concluding section discusses steps that the Congress can take to hasten the transtion.

## I. Backround

For reasons not entirely understood, a change in marital behavior has been occurring in the United States--and in the rest of the industrialized world though at lower levels--in the past half century.[1] Permanent marriage is on the wane. Whites marry and increasingly divorce; blacks are increasingly likely never to marry at all.[2] The result has been an explosion in the number of single-parent families. By 1984 one out of five children and over half of black children lived in a home in which no father was present. One of every two children born today will spend part of their childhood in a family headed by a single mother.

Most of these families have found themselves economically insecure; about half of the group is in poverty.[3] Their hardship is due in part to the failure of absent parents to adequately support their children, in part to the relatively low earning power of single mothers, and in part to the level of welfare benefits. After a near tripling between 1955 and 1975, benefits declined by over one-quarter between 1975 and 1985.[4]

Public alarm over family breakup has grown with the rise in the welfare rolls. Aid to Families with Dependent Children (AFDC, formerly ADC, for Aid to Dependent Children) was enacted as part of the Social Security Act of 1935 to provide for the needs of poor fatherless children, most of whose fathers had died. It was expected that Survivors Insurance, to be enacted in 1939, would support children whose fathers had a work history, and in the interim--until all families were covered by this insurance--AFDC would fill the gap.

Since the 1930s, however, the caseload has changed dramatically. Now the vast majority of the cases, close to 90 percent, are on welfare because the fathers are absent from home--divorced from, separated from, or never married to the mothers of their children.[5]

That the state should support children who had able-bodied fathers who had deserted them has never, however, been a very popular idea. Though such children were covered by AFDC from the outset, whether they should be covered was controversial.

Enthusiasm for supporting such children was further eroded by the change in women's work patterns. By the early 1970s nearly half of all middle- and upper-income mothers, even those with young children, were working outside the home at least part time, and the proportion of married mothers who earn wages has continued to grow since then.

Government's response has been, belatedly, to foster the traditional means of support for children: contributions from both parents. Private child support is moving from individual determinations in the courtroom to the routinization associated with taxation and social insurance. At the same time, the public child support system, welfare, system is changing. No longer are government benefits expected to substitute for parental earnings. Rather they are coming to be viewed as a supplement to the earnings of both parents.

## II. Weakensses and Changes in Private Child Support

The private child support system--whereby an absent parent contributes to the maintenance of his children--has been implemented through the judicial branch. The court determines the amount of child support to be paid by the noncustodial parent on an individualized basis, and the noncustodial parent pays the support directly to the parent caring for the children.

When the number of broken marriages and paternity cases was small, greater equity was perhaps achieved by this individualized system. In small communities, the judge knew the parents and their circumstances, so justice was better served by taking account of all particulars. But when the number of cases is large and the system impersonal, this method breaks down. In practice, judges now do very little to tailor child support to particular circumstances.

Other aspects of the system are problematic. First, only 61 percent of mothers eligible for child support have awards.[9] The proportion with an award varies dramatically with the marital status of the mother. Whereas eight out of ten divorced mothers receive child support orders, less than half of separated mothers and less than one in five of never-married mothers have orders.

The private system is also very expensive, in time and cost to the parents and in delays for the children needing support. And this case-by-case determination treats equals unequally. Data for Wisconsin, for example, indicate that child support awards range from zero to over 100 percent of the noncustodial father's income. The system is also regressive. Child support obligations represent a greater proportion of the incomes of low-income parents than of those who are well off.

Child support awards are considered to be inadequate,[10] though the problem may be not so much that initial awards are low as that they do not reflect changes in the earnings ability of the noncustodial parent, or even changes in the cost of living.

Collecting support once an award is made has also been difficult. When failure to pay occurs, the custodial parent generally must initiate a legal action, a proceeding fraught with difficulties. It requires legal counsel--a substantial financial burden for a parent already not receiving support--and often involves difficult fact determinations because of the lack of adequate records of direct payments to the custodial parent. Nationally, as recently as 1985, only half of the parents with awards received the full amount owed them and about one-quarter received nothing.[11]

Congressional interest in absent fathers grew as the upward trend in divorce, separation, desertion, and out-of-wedlock births increased the number of families dependent on AFDC. The first federal legislation on private child support was enacted in 1950. State welfare agencies were required to notify law enforcement officials when a child receiving AFDC benefits had been deserted or abandoned. Further legislation, enacted in 1965 and 1967, allowed states to request addresses of absent parents from federal social security records and tax records. States were also required to establish a single organizational unit to enforce child support and establish paternity.

The most significant federal legislation was enacted in 1975, when Congress added Part D to Title IV of the Social Security Act, establishing the Child Support Enforcement (IV-D) program. This legislation created the public bureaucracy to enforce private child support obligations.

By 1985 collections reached $2.7 billion, including $1 billion for AFDC recipients. This represents an increase of 282 percent in collections for AFDC families between 1976 and 1985.[12] Census Bureau statistics indicate that real child support award levels have fallen rather sharply during the last six years, and overall payment rates of child support relative to what is owed have increased only slightly.[13] The decline in the real amount of child support owed seems attributable to both the erosion of the real value of awards by inflation and the changing composition of those getting awards (i.e., more never-married and fewer divorced women).[14]

Still, there is good reason to believe both that the system is getting better and that child support collections will continue to grow, as the 1985 figures do not reflect the strongest federal child support legislation to date. That legislation, passed in 1984, addressed most of the major shortcomings of the private child support system: the failure to obtain an award from the courts, the inequity and inadequacy of awards, and the failure to collect support. States are now required to adopt expedited procedures for obtaining support orders either through the judicial system or in an administrative agency. To increase the number of awards to never-married mothers, states are required to extend the period during which paternity action can be initiated to any time up to the child's eighteenth birthday. All states are required to establish child support guidelines to enable judges and others determining the sizes of awards to set equitable and adequate support payments--though these guidelines are not binding on the judiciary. To enhance collections, the 1984 amendments provide fiscal incentives for states to monitor payments in all cases. Moreover, the amendments require the states to adopt automatic income withholding for child support to take effect after one month's delinquency.

## III. Weaknesses and Changes in Public Child Support

Public support is a significant feature of the child support system, and public transfers substantially exceed private child support transfers. Whereas slightly over $7 billion in private child support was paid in 1985, AFDC expenditures on families potentially eligible for child support were equal to no less than $8 billion. If the costs for food stamps ($5 billion), housing assistance ($3 billion), and Medicaid ($8 billion) are included, public transfers equaled nearly $24 billion, or more than three times private transfers.[15]

As mentioned above, dissatisfaction with AFDC has grown along with costs and caseloads. On a number of occasions regulations have been changed in an effort to reduce the welfare population. The first government program explicitly to aid AFDC mothers in finding employment was the Work Incentive Program (WIN), established in 1967. WIN required all nonexempted persons aged 16 or older who applied for or received AFDC to register for work and training. The program was supposed to assess job skills and provide job training and employment placement, but has furnished little assistance of this nature. It has not had much impact on either work or caseloads.

In 1981 the Reagan administration sought to cut off benefits to recipients with substantial earnings and to require those who received benefits to work for them. Congress agreed to much, but not all, of this strategy. By 1987 almost every major welfare reform proposal contained both work requirements and the provision of services such as training and day care to facilitate work.

As structured, nevertheless, AFDC encourages welfare dependency. After four months on a job, a woman on AFDC faces a reduction in benefits of a dollar for every dollar of net earnings. It is not surprising therefore that the vast majority of mothers on welfare do not work.

Even if they were fully employed, however, one-half of welfare mothers could earn no more than the amount of their annual welfare grant, and another quarter could earn only up to about $3,000 more.[16] How many more could not earn enough to cover the costs of their Medicaid benefits has not been established. But surely the numbers are large. Finally, this estimate takes no account of the necessity of some of these mothers to work less than full time, full year.[17] This evidence suggests that transfers are necessary to provide an adequate standard of living for these families. The only way to alleviate the poverty of single parents without creating total dependency is to supplement rather than replace their earnings.

## IV. A Child Support Assurance System

Under a Child Support Assurance System, all parents living apart from their children are obligated to share their income with their children. The sharing rate is specified in law and, exceptional cases aside, depends only upon the number of children owed support. In Wisconsin this rate is equal to 17 percent of the noncustodial parent's gross income for one child, and 25, 29, 31, and 34 percent respectively for two, three, four, and five or more children. The obligation is collected through payroll withholding in cases where that is possible, as are social security and income taxes. In other words, child support is akin to a proportional tax on noncustodial parents. Children with a legally liable noncustodial parent are entitled to benefits equal to either the child support paid by the noncustodial parent or a socially assured minimum benefit, whichever is higher. Should the noncustodial parent pay less than the assured benefit, the difference is paid by the state. The extra costs of the assured benefit are financed from AFDC savings that result from increased child support collections and from a small surtax up to the amount of the subsidy, which is paid by custodial parents who receive a public subsidy.

The state of Wisconsin, following the recommendation of the Institute for Research on Poverty 1982 study report, Child Support: Weaknesses of the Old and Features of A Proposed New System,[18] is implementing the child support assurance system in stages. The percentage-of-income standard was made an option for the courts to use in 1983 and became the presumptive child support obligation as of July 1987. (The percentages, however, are still being used to arrive at fixed dollar child support orders rather than being expressed in percentage terms.) Immediate withholding was piloted in 10 counties in 1984 and also became operational statewide in July 1987. The assured benefit is scheduled to be piloted in late 1988.

The plan has a number of advantages over the traditional court proceedings. A fixed sharing rate provides automatic indexing of child support awards, so that as the income of the noncustodial parent increases, the award increases. Since very low child support payments are related at least as much to lack of adjustment for increased earnings as they are to low court orders, indexing should increase payment amounts. Also, if the earnings of noncustodial parents decrease owing to unemployment or illness, their obligations will also drop.

Automatic withholding, rather than withholding in response to delinquency, will increase both the size and timeliness of child support payments. Noncustodial parents who have defaulted for a few months may have spent the money for other purposes and often cannot afford to pay back the arrearage. Most important, Wisconsin's recent experience with withholding in response to delinquency shows that 70 percent of noncustodial parents became delinquent within three years. No society profits by making so many into lawbreakers. Uniform automatic withholding removes any element of stigma and punishment from the collection process while enhancing children's economic security.

The assured benefit insures children from middle and upper middle income families against the risk that their noncustodial parent's income declines. When the percentage of income standard is fully implemented and child support orders are expressed in percentage terms, a sudden decline in the noncustodial parent's income due to illness or unemployment would result in a precipitous decline in child support if it were not for the assured benefit.

The assured benefit also enables those with low earnings ability and low child support entitlements to escape poverty. A large proportion of welfare mothers would still be poor even if they worked full time and received all the private child support to which they were entitled in the absence of an assured benefit.

The assured benefit will encourage work and reduce welfare dependence. Unlike welfare, the assured benefit will not be reduced by one dollar for each dollar of earnings.

Finally, the assured benefit is an effective means of reinvesting the savings of increased child support collections. Sharing the gains of increased collections with poor custodial parent families who have child support awards is an investment because it gives custodial parents an incentive to cooperate in the establishment of paternity and location of the noncustodial parent.

A cost-neutral federal child support assurance system would reduce the poverty gap and AFDC caseloads by, respectively, 40 percent and 50 percent.[19]

Such estimates both indicate the potential of a child support system to reduce poverty and dependence, and reveal its limits. For they tell us that even if all the welfare savings resulting from increased private child support to AFDC families were used to finance an assured benefit, over half of the poverty problem for this group would remain. In short, child support can play a large part in solving the nation's poverty and welfare problems for single mothers and their children. But by itself, it is insufficient.

## V. Where Do We Go from Here?

The U.S. and other industrialized nations are moving slowly and unevenly in the direction of a child support assurance system.[20] I would encourage the Congress to hasten that transition. There are a number of both small and large steps that Congress can take. I will comment on computerization, paternity establishment, child support standards, immediate withholding, and the assured benefit.

My comments on computerization will be short for I simply do not understand why it is taking so long for the states to respond to the large incentives that the federal government has given them to computerize. At long last, however, there does seem to be some movement. I would urge you to retain federal financing of 90% of the cost. A modern automated data system is a prerequisite to an effective child support system.

The proportion of never married cases with child support awards increased from 11% in 1979 to 18% in 1985. That is notable progress, but not good enough. It is still the exception rather than the rule for paternity to be established. We must reverse that. Doing so is possible though initially, it will be costly. The overwhelming majority of never married mothers know who the fathers of their children are. Very few are promiscuous. But when most fathers escape without much effort, there is a great incentive for them to deny paternity and be difficult to locate and little incentive for the mothers or public officials to pursue the matter. Location and blood testing can be expensive. And, these cases have the least ability to pay. Special incentives for states to establish paternity will therefore be necessary. An assured child support benefit will also increase the incentive of custodial mothers to make sure paternity is established. Twenty or thirty years from now when we establish paternity in nearly 100% of cases, the cost per case of doing so will be much smaller because most fathers recognizing the inevitable will simply admit to paternity.

Nonbinding guidelines are not equivalent to a simple legislated child support standard. Most of the guidelines that states have adopted or are considering are too complex. Furthermore, they do not prevent the savings from increased child support collections from being eroded by inflation. The best thing Congress could do is to enact a federal child support percentage-of-income standard, which would automatically link child support obligations to income changes. Short of that, I support Congressional proposals to require the states to make their guidelines rebuttable presumptions for determining child support obligations and to periodically update child support orders to reflect changes in the noncustodial parent's ability to pay. I do worry, however, about the capacity of the states to update awards. Finally, I would urge the Congress to consider a minimum child support obligation equal to 17% of a minimum wage job providing that the Congress would simultaneously establish a guaranteed minimum wage job program for at least noncustodial fathers. Absent the job guarantee, Congress could establish a very low federal minimum child support obligation.

Withholding in response to delinquency is not equivalent to immediate universal withholding of child support obligations. Does anyone imagine that income tax collections would be as large if we used withholding only for delinquents? Preliminary evidence from Wisconsin suggests that where it has been pursued as universally as possible, immediate withholding is already increasing collections by a modest amount. Furthermore since our data show that within three years 70% of obligors become delinquent, it makes sense to withhold the child support before the majority of noncustodial parents become lawbreakers. Thus mandating, or at the very least encouraging, the states to adopt laws for immediate income withholding seems to be a sensible next step.

Finally, we come to the assured benefit. As described above this essential feature of a child support assurance system provides insurance for middle and upper income custodial parents, helps lower income custodial parents excape poverty and welfare dependence, and creates an incentive for custodial mothers to establish paternity. Here I want to put the assured benefit into the broader perspective of the political and social choices our country must confront as we strengthen the public enforcement of private child support.

Strengthened child support enforcement has already begun to reduce AFDC costs and will do so even more in the future. The first question we face is what do we do with the AFDC savings?

The AFDC savings can be used to reduce taxes or to increase the economic well-being of children eligible for child support, or some combination of both. In view of the fact that children potentially eligible for child support and the mothers who care for most of them are among our poorest citizens, using these funds to improve the economic well-being of these families is at the very least the compassionate thing to do. It is also wise. One half of our next generation will be eligible for child support before reaching adulthood. Investing in them is wise as well as compassionate. Furthermore, sharing some of the increased revenues with these families will encourage the mothers to cooperate in establishing the paternity of noncustodial fathers--which is one of the weakest links in the current system.

Congress has already approved two alternative methods of sharing some of the AFDC savings with families eligible for child support. All states are now required to ignore the first $50 per month of child support paid in calculating the amount of the AFDC benefit. Two states, Wisconsin and New York are permitted to use the federal share of AFDC savings to help fund an assured child support benefit. In other words, the savings in these states will be used to take women outside the welfare system. Which method is preferable: Sharing the gains inside or outside of welfare? If your objective is to reduce the extreme dependence endemic to AFDC the answer is clear: Do it outside welfare. I am therefore opposed to the $50 child support set-aside within welfare. I urge you to eliminate it and channel the savings generated into an assured child support benefit.

Some might ask, "Isn't a child support assurance system just welfare by another name?" The answer is no. Unlike the welfare system, the child support assurance system is not just a program for the poor. Like our social insurance and public education systems, it serves children from all income classes. Second, unlike the welfare system, it supplements rather than replaces earnings. There is no benefit for the custodial parent and the benefits for the children are not eliminated as the earnings of the custodial parent increase. Finally, to those who ask, "Is child support assurance just welfare by another name?" I ask, "Is Survivors Insurance just AFDC by another name?" To say so is just plain foolish.

The architects of our social security system feared the effect of long-term dependence on cash welfare assistance. The architects of our social security system said, and I quote, "A Democratic society has an immeasurable stake in avoiding the growth of a habit of dependence among its youth." So they urged adoption of a Survivors Insurance system, which required workers to insure themselves in order to "sustain the concept that a child is supported through the efforts of the parent...." Like the Survivors Insurance system, a child support assurance system is based on the widely accepted concept that to parent a child is to incur a responsibility to support the child.

Congress could take any number of steps in the direction of a federal assured child support benefit. At the very least, grant other states besides Wisconsin and New York the right to use federal funds that would otherwise have been spent for AFDC to help fund an assured child support benefit. To do so won't cost the federal government one cent. And, please eliminate the $50 set-aside, and use the savings to help fund either a state or federal assured child support benefit. If you want to be more venturesome, but still cautious, to limit the assured benefit to a few years substantially reduces its potential cost. There is precedence for such a time-limited benefit in Germany. An equally cautious alternative would be to start with a very low assured benefit. The particular steps Congress should take now depends primarily upon political feasibility--about which you know far more than I. So long as the steps move us from the dismal reality of the current system toward the bright promise of a new child support assurance system, the country will benefit. Thank you once again for the opportunity to contribute to your deliberations.

## Notes

[1] For a discussion of the theories promulgated to explain this phenomenon, see Irwin Garfinkel and Sara McLanahan, Single Mothers and Their Children: A New American Dilemma (Washington, D.C.: Urban Institute Press, 1986), pp. 55-85.

[2] Ibid., p. 46.

[3] Ibid., p. 12.

[4] Ibid., p. 173.

[5] U.S. House of Representatives, Committee on Ways and Means, Background Material, and Data on Programs within the Jurisdiction of the Committee on Ways and Means (Washington, D.C.: U.S. GPO, 1987), p. 388.

[6] See Garfinkel and McLanahan, Single Parents and Their Children, for a review of the literature.

[7] They are much more likely than the rest of the population to become homeless. See Irving Piliavin, Michael Sosin, and Herb Westerfelt, "Conditions Contributing to Long-Term Homelessness: An Exploratory Study," IRP Discussion Paper no. 853-87, 1987.

[8] Greg J. Duncan, Martha S. Hill, and Saul D. Hoffman, "Welfare Dependence within and across Generations," Science, forthcoming.

[9] U.S. Bureau of the Census, "Child Support and Alimony, 1985," Current Population Reports, Series P-23, no. 152 (Washington, D.C.: U.S. GPO, 1987).

[10] Ann Nichols-Casebolt, Irwin Garfinkel, and Patrick Wong, "Reforming Wisconsin's Child Support System," IRP Discussion Paper no. 793-85, 1985.

[11] U.S. Bureau of the Census, "Child Support and Alimony, 1985."

[12] U.S. Department of Health and Human Services, Office of Child Support Enforcement, Child Support Enforcement Statistics, Fiscal Year 1985, Vol. 2, Table 1, and Child Support Enforcement, Fifth Annual Report to the Congress for the Period Ending September 30, 1980, Table 2 (Rockville, Md.: National Child Support Enforcement Reference Center, 1986).

[13] U.S. Bureau of the Census, "Child Support and Alimony, 1985."

[14] Andrea H. Beller and John W. Graham, "Child Support Payments: Evidence from Repeated Cross-Sections," American Economic Review, Papers and Proceedings, May 1988, forthcoming.

[15] Estimates of private child support are taken from U.S. Bureau of the Census, "Child Support and Alimony, 1985." Estimates of public child transfers were derived by Irwin Garfinkel and Sara McLanahan; see Single Mothers and Their Children, Table V-2.

[16] Isabel Sawhill, "Discrimination and Poverty among Women Who Head Families," Signs, 2 (1976), 201-211. The figure $3,200 is my adjustment to 1985 dollars. In the original paper the number was $1,000 in 1968 dollars.

[17] David Ellwood, "Working Off of Welfare: Prospects and Policies for Self-Sufficiency of Women Heading Families," IRP Discussion Paper no. 803-86, 1986.

[18] Garfinkel and Marygold Melli, Child Support: Weaknesses of the Old and Features of a Proposed New System, Vol. 1, IRP Special Report no. 32A, 1982.

[19] Garfinkel and McLanahan, Single Mothers and Their Children, pp. 172-173.

[20] Irwin Garfinkel and Patrick Wong, "Child Support and Public Policy," paper presented at the Conference of National Experts, "Lone Parents: The Economic Challenge of Changing Family Structures," December 15-17, 1987, OECD, Paris.

Acting Chairman DOWNEY. Thank you. Mr. Garfinkel, before, Mr. Lerman, we hear your testimony, you are going to have to wait for Mrs. Kennelly to return, because I have got to go vote, so we are going to take a short recess until she returns, and I will be joining you in a few minutes.

So the committee will stand in recess until Mrs. Kennelly arrives.

[Brief recess.]

Mrs. KENNELLY [presiding]. Mr. Lerman.

## STATEMENT OF ROBERT I. LERMAN, CENTER FOR HUMAN RESOURCES, HELLER SCHOOL, BRANDEIS UNIVERSITY

Mr. LERMAN. Thank you. It is an honor to address the committee.

I am Bob Lerman from the Heller School at Brandeis University.

I don't want to repeat what Irv Garfinkel said. Perhaps I will reiterate some of the points, .since you were able to hear all of his points.

I have been working on these issues, poverty, inequality, and welfare systems, and most recently, what young absent fathers are doing and who they are. And so that's probably why someone was gracious enough to invite me to speak here.

I want to make a very quick summary of the main points, and then I will just expand on one or two of them.

First, as has been mentioned, the potential for increased collections is vast, somewhere in the neighborhood of $25 billion. Demographic trends clearly show that the child support issue will increase in importance over the next decade, and probably, the size of the pool of potential payments will go along with that.

However, despite the optimistic notes mentioned about what States are doing, dramatic increases in collections are possible but unlikely within the next few years, at least based on recent experience.

To the extent we do observe increased collections, they are probably going to involve high costs.

Just one slight note which was striking to see in the recent 1985 census report. Over 40 percent of unmarried mothers, never married mothers who don't have awards, say that they are not seeking an award; over 40 percent.

So as Irv Garfinkel mentioned, there have to be a better incentive; there has to be better systems. But at this point, again, based on recent experience, based on the experience between 1981 and 1985, we're unlikely to get the kind of dramatic increases in collection that we'd all like to see.

The gap in payments, for example, the gap between actual payments and obligations among those due payments narrowed only slightly between 1981 and 1985, again, despite real effort to increase collections.

Another point that I would like to make is that the vast majority of noncustodial fathers, including young fathers, can and should make significant child support contributions without the added complication of government imposed work requirements.

Such requirements may be good ideas, but I think they divert attention at this point, until we make the effort to do serious paternity establishment and collections. Only after that should we consider all kinds of work and training rules.

Reiterating further this point about dramatic increases in collections, it seems to me that a pure collection strategy will have little impact on poverty or on the AFDC rolls.

The best study of this was done by Phil Robins, who studied the effectiveness of State IV-D agencies. And he even took the most optimistic projection in which all mothers would have awards, and the States would collect all of what those awards would be, and found that while collections would jump substantially to 32 percent of AFDC benefits, it would reduce AFDC participation rates by only 2 percentage points and would lower the poverty rate of these mothers only from 51 percent to 45 percent.

So a pure enforcement strategy, while desirable, is unlikely to be sufficient to make a major impact on poverty or on welfare dependency.

But if this is insufficient, what other steps could go beyond the pure enforcement strategy?

One would be to enact a kind of a program that Irv Garfinkel talked about that is about to be implemented in Wisconsin in which you supplement the enforcement strategy with a child support assured benefit.

The Government would pay some minimum amount, even if it were unable to collect some basic amount from the absent fathers.

I personally believe that for this program to have credibility, you have to make the payment low enough so that if the State were able to collect from the vast majority of fathers, what those fathers should pay, the State would owe nothing.

If we set the benefit too high, we set it higher than what many fathers would be paying on their own right, then it really should be considered as welfare.

But if we set it low enough so that let us say 90 percent of fathers, knowing what their incomes were, expecting them to pay some reasonable proportion of their income, if the State actually collected what they earned, at 90 percent of what they should pay, that State would be free of all obligations.

In that regard, the public would know and the mother would know that she is getting that benefit not because she can't support her family and not because she's poor, but because the State didn't collect from that absent father.

I suggest that the Federal Government strongly encourage States to test these programs, go beyond Wisconsin, which by the way has a very high benefit program. I would try to get States to test also lower benefit programs.

And I think that this has a great potential. I have simulated the costs and the potential impacts nationally of adopting such a child support strategy on the welfare rolls and on poverty.

And before I mention those simulation results, let me mention one other element that could be done along with it, even though it seems unrelated.

And that would be to piece together a whole series of nonwelfare alternatives, so that women could make work pay and escape poverty. We can start with a low benefit child support assurance program, along with all the collection procedures that we would put into place to minimize the Government cost of that program.

We then could simply take the personal exemption for children and heads of families and make that into a tax credit with no added cost to the Federal Government.

Those two elements themselves would greatly lower the exit points from welfare. And so a woman in most States, even if she worked half time at something on the order of $4 an hour, would find herself off welfare.

In high payment States, you have basically no financial reason to work half time even at fairly good wages. And so right now what we have is a system which is working against itself.

On the one hand we have these employment training programs to try to encourage people to get into the labor force. On the other hand, we have a reasonable desire to raise benefit levels.

Well, those two things go against each other. The more you raise benefit levels, which is good for the antipoverty aspects, the more you reduce the—you reduce making work pay, and reduce the chances that women will be off the welfare system.

This will remain true unless we have some nonwelfare alternatives to supplement this enforcement strategy.

So if we put together a low benefit child support assurance with a refundable credit, we could have a very large impact. My estimates, which I think are an overestimate of the cost, are that for about on the order of $2.5 billion, we could reduce the poverty gap by $11.3 billion; reduce the number of poor families by 1 million families; reduce the number of AFDC families by 750,000, which is about a quarter of the AFDC rolls; just with those two programs alone.

And the more than the child support enforcement strategy worked, the lower it would cost. But if it didn't work, the costs would not be wholly borne by women not on welfare.

The attorney general of Texas mentioned that there should be a greater recognition of people who are not on AFDC and not even in IV-D cases. If you did have this basic minimum that the States were responsible for providing, if they didn't collect, then all of those women would be subject to that kind of system, and automatically, States would get credit for making collections on their behalf.

So finally, I just want to say that while I'm very supportive of the enforcement strategies that have been discussed, that States are moving toward, and I wish them the greatest of luck, the evidence to this point indicates that those are only going to be a partial solution; it will take many years; and in the meantime, the burden of nonenforcement should not fall on children.

[The prepared statement of Mr. Lerman follows:]

# TESTIMONY OF DR. ROBERT I. LERMAN, CENTER FOR HUMAN RESOURCES PETER HELLER PROGRAM ON INNOVATION IN SOCIAL POLICY HELLER SCHOOL, BRANDEIS UNIVERSITY, MARCH 2, 1988

## 1 Introduction

Mr. Chairman and the Members of the Committee, the country faces a dramatic increase in the percentage of children who lack regular financial support from a living parent. The constructive work of the Congress improved state enforcement programs have raised collections substantially. Unfortunately, these gains have been offset by the jump in the proportion of children living without a father.

Our best hope for dealing with the continuing increases in mother-headed families is to build on the new consensus emphasizing parental responsibility and the mutual obligations of beneficiaries and the government. We now recognize that the child support problem touches all income groups. But, when the failure of fathers to pay support drives mothers into poverty and when welfare takes the place of child support, mothers begin to find themselves in a stigmatized system, one which makes work at realistic wages no longer worthwhile. Custodial mothers, as well as taxpayers, bear the costs of slack law enforcement.

Provisions of HR 1720 would stimulate states to become more effective in establishing and enforcing child support obligations. These efforts can achieve a great deal, since a large gap remains between what fathers should pay and what they actually pay. Even most young unwed fathers earn enough income to provide significant financial support for their children.

But, a pure enforcement strategy is unlikely to achieve dramatic progress in reducing poverty or welfare dependency. The administrative costs required to generate substantial increases in support payments are likely to be high. Even with a massive new effort, many mothers owed child support will still obtain little or no payments. Ironically, in those cases where support payments that move mothers and their children off welfare, the family may still lose as a result of a cutoff in medicaid coverage.

If we want to achieve a significant impact on mother-headed families, their poverty, and their welfare dependency, we must supplement enforcement strategies with other reforms. A coordinated package of low cost, nonwelfare components, together with increased collections, could reorient the welfare system and achieve significant reductions in poverty. A key feature of this approach would be a child support assurance program that to insure that custodial parents received at least a minimum support payment, whether or not the state collected such an amount from the non-custodial parent.

Before discussing the broad agenda, I want to make the following points that respond to questions raised in your statement of February 8:

- the potential for increased collections is vast, about $25 billion;
- demographic trends clearly show that the child support issue will increase in importance over the next decade;
- the gap between actual payments and obligations among those due payments narrowed only slightly between 1981 and 1985;
- dramatic increases in collections are possible but unlikely within the next few years;
- a pure collection strategy will have little impact on poverty or on the AFDC rolls; and
- the vast majority of non-custodial fathers, including young fathers, can and should make significant child support contributions without the added complication of government-imposed work requirements.

In the final part of my testimony, I argue:

- supplementing the enforcement strategy with selected, nonwelfare components can substantially reduce poverty and the welfare rolls; and
- the Federal government should strongly encourage states to test programs that assure a minimum support payment to custodial mothers.

## 2 The Collection Potential

Under any child support system, there are limits to the claims on a father's income. Judges setting support orders must take account of the father's own living expenses and of disincentive effects on the work effort and reporting by fathers. Given payment standards being developed by states, even full child support payments from the large number of fathers of welfare children earning in the $8,000—14,000 range are not, by themselves, be enough for children to leave welfare or escape poverty. However, if all absent fathers paid what they could reasonably afford, mothers heading families could more easily escape welfare and poverty by working.

Shortfalls in support payments result from three deficiencies:

- the failure to establish a support award;
- nonpayment or underpayment of existing awards; and
- low award levels relative to the incomes of absent parents.

Eliminating any individual gap while holding the others constant would accomplish little, but eliminating all three gaps would have a major impact on payments.

### 2.1 Overall Gaps in Payments

The Census Bureau's April supplements to the Current Population Survey (CPS) are the primary data sources for estimating support payments. Since the CPS data come only from self-reports by custodial mothers, the Census numbers might understate actual payments. The Census data do not include payments to mothers who lack an agreement (voluntary, court-ordered, or other) that the father pay a specified amount. As a result, *the Bureau reports ignore informal support payments that may have been received by 42 percent of all mothers with children of absent fathers and 58 percent of poor mothers.* Evidence from reports by unwed fathers suggests that the Census procedures understate receipts of child support payments.[1]

Despite these limitations, the CPS data permit estimates of the receipt of child support payments from 1978 through 1985. Table 1 displays the gaps in payments reported by those due a child support payment from 1981 through 1985. According to these data, improvements in collections took place between 1981 and 1983, but the situation appeared to worsen somewhat between 1983 and 1985. While the proportion of mothers with payments due did increase during the 1983-85 period, actual payments to these mothers declined in real terms from $1,901 to $1,634. The overall gap between payments due and actual payments stood at $3.63 billion in 1985.

These figures show *averages* and do not reflect the diversity of payment patterns. Of the nearly 4 million mothers who were due payments in 1983, about half received the full amount from the father. Two-thirds of mothers who obtained some child support payment collected their full award. In general, then, absent fathers subject to support orders fall into two categories: *payers*—those who pay all or nearly all of their obligation and *non-payers*.

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[1] In a 1987 paper using NLS data, I found that over one-third of unwed fathers report making child support payments.

Although direct estimates of absent father's income are not available, I projected figures assuming that the incomes of fathers was 75 percent of the median weekly earnings of adult men times 52 weeks. If fathers had paid 20 percent of this income in child support, then total support payments (to those already due support) would have jumped by $7.6 billion in 1985.

Of course, if we take account of mothers who *should* be due payments, the payment gaps would rise still further. Assuming that all absent fathers paid 20 percent of projected earnings, then the total gap amounted to $23.5 billion.

## 2.2 Economic Burdens on Fathers Making Payments

What was the economic burden on fathers actually making support payments? Recent national data from SIPP permit direct calculations on the relationship between support payments and incomes. Of the 3.6 million non-custodial parents making support payments, the amounts rise with income but at a less than proportional rate. Parents with incomes below $12,500 per year pay about 17 percent of their income; among those in the $12,500 to $30,000 per year range, payments are about 11-12 percent of income; the highest income groups pay about 8 percent of their income as child support payments.

## 2.3 Support Payments to AFDC Recipients

Only 17 percent of AFDC recipients received child support payments in 1983, as compared to 40 percent of mothers not on AFDC. Still, lack of child support payments alone do not lead to AFDC. *Over 60 percent of mothers stayed off welfare despite receiving no child support payments.*

Of mothers who received child support payments in 1983, AFDC recipients obtained less than other mothers, but the differential is not enormous. The median payment reported by AFDC mothers was about $1,200, or $100 per month.[2] But, the median payment to mothers not on welfare was only $1,786, or about $150 per month. Thus, even if welfare mothers received the median child support payment received by mothers not on welfare, the $150 per month support payment, by itself, would be too low to push large numbers of families off welfare.

Among mothers on welfare who were supposed to receive child support payments, only 5 percent obtained their full award while about 40 percent did not collect anything during 1983. On average, AFDC mothers who were due to receive payments obtained $905. If these mothers had received the full amounts awarded, the average support payment would have more than doubled to nearly $1845; that is, the payment shortfall averaged about $940.

## 2.4 Sources of AFDC Payment Gaps

Suppose that fathers of AFDC children had incomes of about $12,000 per year. If awards averaged 22 percent of projected income and all fathers had obligations which they fully paid, AFDC mothers would have received about $2640 per year in support payments. In fact, they received an average of $225 in 1984.

Collections amount to only about 1.9 percent of incomes of absent fathers. But, it would take dramatic improvements in all the award and collection areas to produce a significant dent in the AFDC rolls. Increasing awards to 22 percent of income and leaving other factors unchanged would raise support payments only to 2.6 percent of father's income. If all custodial parents had awards and nothing else changed, support payments would rise to 6.5 percent of father's income. Collecting all that fathers with awards now owe would raise average payments to about $535 per year (or 4.5 percent of income).

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[2] These numbers come directly from the U.S. Census Current Population Reports, Series P-23. Amounts reported to SIPP show even lower mean ($1,326) and median ($960) payments.

Table 1: Trends in Child Support Due, Actual Payments, and Gaps

| Payments, Amounts Due, and Collection Gaps | 1981 | 1983 | 1985 |
|---|---|---|---|
| | (dollars at 1985 prices) | | |
| Women with Children Under Age 21 of Absent Father (000's) | 8,387 | 8,690 | 8,808 |
| Percent Due Payments | 46.1 | 44.0 | 47.6 |
| Mean Payment Due | $2,769 | $2,716 | $2,500 |
| Mean Payment of Those with Awards | 1,790 | 1,901 | 1,634 |
| Gap Between Payment and Payment Due | 979 | 815 | 876 |
| Total Gap (in billions) | 3.785 | 3.116 | 3.631 |
| Payments As Share of Projected Male Earnings | 10.2 | 11.1 | 9.4 |
| Gap Between Payments and 20 Percent of Projected Earnings | 1,697 | 1,518 | 1,813 |
| Projected Gap for Those Due Payments (in billions) | 6.559 | 5.802 | 7.603 |
| Payment per Mother of Children under 21 from Absent Father | 825 | 836 | 778 |

Source: Tabulated from Current Population Reports, Series P-23.

Only when we accomplish all three goals would dramatic (12 fold) increases in payments take place.

## 3 The Enforcement Strategy

Can enforcement efforts eliminate these gaps and reduce poverty and welfare dependency?

The most rigorous analysis of the effectiveness of existing and expanded child support enforcement is a study by Philip Robins He finds that services from state IV-D agencies significantly raised the likelihood of a mother receiving payments. About 38 percent of mothers who contacted the agencies obtained a support payment; without help from the agency, only 18 percent would have received a payment. Agency interventions also raised the average amount of child support, but only by small amounts, by about $290 per year for AFDC mothers and abou $208 per year for mothers not on AFDC.

Robins simulated how alternative child support collection results would affect participation in AFDC, poverty, and child support collections as a percent of AFDC benefits. Overall, Robin's results show only modest gains from existing and expanded child support collection. In comparison to no child support payments at all, the Title IV-D programs raise child support collections to about 6.5 percent of AFDC benefits, reduce AFDC participation rates by about 1 percentage point, and reduce poverty rates from 51 to 48 percent of the sample.

Extending services to all families apparently would have no impact on AFDC participation rates, but would raise the proportion of AFDC benefits recovered through support payments from 6.5 percent to about 13.5 percent. The most ambitious case considered by Robins is full collection of existing awards and of establishing and collecting support orders for all mothers not currently possessing an award. Robins projects that this level of enforcement success would cause collections to jump to 32 percent of AFDC benefits, would reduce AFDC participation rates by 2 percentage points from 34 percent to 32 percent of mothers, and would lower their poverty rates from 51 to 45 percent.

These modest impacts of expanded enforcement result from the low support awards that arise out of the legal system. In 1982, the average obligation of absent fathers amounted to only $86 per child on AFDC and $127 per child not on AFDC. Since average AFDC benefits per family well exceed average support awards and since only a small proportion of AFDC mothers work, the low impacts on participation are not surprising.

More recently, Robins found a similar insensitivity of AFDC participation to overall child support collections. Between 1978 and 1981, the 17 percent decline in the real value of collections induced only a 1 percent increase in AFDC participation. Slight increases in collections between 1981 and 1983 had no discernible impact on the AFDC rolls.

## 4 Demographic Trends and Child Support

### 4.1 Increases in Children Requiring Support

Given current demographic trends, the child support enforcement job is likely to become more difficult in the future. Between 1960 and 1986, the proportion of children under 18 living with two parents declined from 88 percent to 74 percent. Even children living in two-parent families are now more likely to have natural parent living elsewhere than in 1960. By 1986, only 40 percent of black children lived with two parents, as compared to 67 percent in 1960.

In 1960, children were in one-parent homes mostly because a parent died or was temporarily absent. Today, one-parent families are today much more likely to result from broken marriages and nonmarriage. *Children are 16 times more likely to live with a never-married parent in 1986 than in 1960.* These children of never-married parents make up over 6 percent of the nation's children.

Collecting support payments for children of never-married custodial mothers is usually costly because of the need need to establish paternity and a support obligation. While improved technologies are available to speed both processes, never-married mothers are becoming less interested in obtaining awards. As of 1985, 42 percent of the 1.64 million never-married mothers who lacked an support order said they did not want an award. This is up from 25 percent in 1983.

Unfortunately, the increases in never-married and divorced parents show every sign of continuing. Of children under 6 living with parents in their 20s, only two-thirds lived with two parents. Only 2 of 5 black children under 6 lived with two parents.

It is clear from these trends that large numbers of children will suffer serious economic hardship unless non-custodial parents contribute substantial amounts of child support. Even if all fathers do pay a reasonable proportion of their incomes as child support, living standards of children will still fall well short of what they would have been had parents remained together.[3]

## 4.2 Dealing with Young Absent Fathers

The image of young absent fathers is of unemployed, minority teenagers who cannot and do not financial support for their children. If this image were the reality, it might make sense develop a work requirement to increase their earnings and thus, their ability to make support payments. On the other hand, if most young fathers can make a meaningful contribution, then the focus should remain on establishing paternity and support orders and collecting the payments due.

What are the facts? A mixed picture emerges from data on the incomes of 21-29 year-old absent fathers.[4] In 1985, the median income of young absent fathers was $10,700, an amount above the poverty level for families of three; the typical black absent father had an income of $8400. Although one of four young absent fathers earned less than $4,500, two-thirds had incomes of $7,000 or more. Among 25-29 year-olds, median incomes were $12,500 for all absent fathers and $9,500 for blacks.

Thus, even at their current income levels, the vast majority of young absent fathers could alleviate their children's poverty if they pooled their incomes with the child's mother. When young parents choose not to live together and pool income, the economic burden often unfairly falls on custodial parents and children. About 60 percent of never-married, 21-29 year-old mothers were poor in 1985, as compared to about 25 percent of never-married absent fathers. Even more striking gaps show up among young divorced and separated parents; poverty beset over 50 percent of mothers but only 12 percent of absent fathers. One reason for the low poverty of young absent fathers and their ability to make support payments is that most live with the parents or other relatives.

While young fathers generally can afford to pay child support, many claim to be making such payments already. I have developed estimates of the percentage of absent fathers making payments and the amounts of payments by race and poverty status. One must interpret the numbers with caution since some of the young fathers who failed to pay child support may have not reported having fathered a child.

Of young men who were recorded as unwed absent fathers, over half reported making some payment. Mean 1984 payments were $2,280, nearly as high as the mean amount reported paid by all custodial parents.

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[3] This is because of economies of scale of living arrangements and the fact that earnings of custodial parents are usually much lower than earnings of non-custodial parents.

[4] I calculated the figures discussed below using data from the 1986 wave of the National Longitudinal Survey of Labor Market Behavior.

## 5 Beyond Enforcement: The Child Support Assured Payment Program

With only modest increases in child support payments are on the horizon, serious reductions in poverty and welfare dependency require supplementing the collections strategy with other approaches. Work and training programs can raise the earnings potential of mothers heading families. But, unless they have access to steady child support, many will find that they gain little income and sometimes actually lose from working.

One promising strategy is Child Support Assured Payment (CSAP) programs. Under CSAP, custodial parents would receive a payment equal to the difference between the non-custodial parent's payments and some minimum level. Such programs, sometimes called *advanced maintenance*, have operated for many years in a number of European countries and Israel.

### 5.1 The Child Support Assured Payment (CSAP)

The theory of the CSAP is that custodial parents should not bear the entire costs of slack law enforcement and the non-custodial parent's low income. As a byproduct, the CSAP would move the country away from its reliance on means-tested programs as a way of helping low income, one-parent families. A third general rationale is that CSAP would stimulate increased collection efforts, as the public sees more clearly the direct cost associated with enforcement breakdowns.

Unlike AFDC, CSAP would be a broad-based program, not one providing benefits on the basis of the family's poverty. Government spending on CSAP would result not from the mother's inability to support her family, but rather from the payment shortfall by absent fathers and from child support enforcement deficiencies.

In my view, distinguishing CSAP from AFDC programs require that government payments compensate only for slack enforcement policies, and not for the low incomes of absent fathers. If, for example, the minimum payment were set equal to the obligation of fathers with incomes at the 10th percentile in the income distribution, then states could escape CSAP outlays in 90 percent of all cases by collecting a reasonable share of income of non-custodial parents. Setting the benefits too high (say at the 30th percentile of father's income) would convert CSAP into a transfer program, since custodial parents would end up receiving far more under CSAP than they would have if they received the child support payment that represented an equitable payment from the non-custodial parent. High assured benefit levels might also increase the strain on the enforcement system, by increasing the incentive for custodial and non-custodial parents to collude. A high payment CSAP would give more mothers the same incentive that AFDC mothers now have of helping the absent father evade official payments so that he will provide more informal payments.

Whether to make custodial parents who have not obtained legal awards eligible for benefits is a difficult issue. In cases where mothers make a good faith effort to assist in establishing paternity and locating fathers, then state agencies might be responsible for the absence of the award and thus should provide CSAP.

One argument for excluding those without awards is to insure their cooperation in establishing paternity and obligations. As noted above, many mothers without awards are not especially eager to obtain them. Of mothers lacking awards in 1983, one in four said the reason was they did not seek an award. By 1985, the proportion not seeking awards had jumped to over 40 percent.

### 5.2 Impacts of Two CSAP Proposals

Wisconsin is planning to implement a demonstration project testing one type of CSAP program. Because of its high minimum benefits, a large proportion of custodial parents will qualify for payments that are well above the support obligations of absent fathers. The Wisconsin plan would impose a surtax on custodial parent earnings would exclude middle income custodial parents, thereby lessening the universal nature of the program. To enhance work incentives, the plan also offers a wage subsidy of $1 to $1.75 per hour.

An alternative approach is a CSAP with low minimum benefits. Suppose, for example, that 90 percent of noncustodial parents (mostly absent fathers) had incomes of $10,000 or more per year. Then, by assuring that all fathers of one child pay at least 11 percent of their incomes, the states would be able to eliminate CSAP costs for all but 10 percent of mothers.[5] To achieve a similar result for fathers of two children, the state would have to make sure that payments are at least 20.8 percent. Avoiding a surtax is another way that this CSAP plan differs from traditional welfare approaches. To limit the value of CSAP benefits to high income families, the the government would count CSAP benefits as taxable income.

By itself, a low benefit CSAP would exert only a moderate impact on the welfare rolls and poverty. However, combining the CSAP with a refundable tax credit could reshape today's welfare system. The credit would replace the $2,000 personal exemption for children and heads of families and would involve minimal or not net revenue costs. A credit of $350 figure, or 17.5 percent of the exemption, would approximately leave total tax revenues constant. This change in the tax code could target benefits on low income families fairly and without stigma or serious incentive effects. The decline in the top marginal rate to 28 percent substantially reduces the tax losses of middle and high income families in shifting from the exemption to the credit.[6] Finally, the earned income tax credit has already broken the precedent against making credits refundable.

For a mother and two children, the maximum credit and child support assurance payments would equal $260 per month. These two amounts alone would well exceed AFDC levels in 10-12 states. In the other states, even a moderate amount of earnings would move people off welfare. Mothers able to work half time at the $4 per hour would be off welfare in all but a few states and have a total income of over $600 per month.

How much would alternative CSAP programs cost? What would be their effects on poverty and the welfare rolls? I have developed simulations of the following four CSAP alternatives:

1. a high benefit plan ($250/month for first child) limited to those with support orders and a surtax on middle and high income mothers;
2. a low benefit plan ($90/month for first child) limited to those with support orders;
3. a low benefit plan to all mothers with children from absent parents; and
4. a low benefit plan to all mothers with children from absent fathers, combined with a refundable tax credit.

These simulations probably overstate the net outlays because they assume no cost reductions from induced work effort by recipients nor from induced increases in collections by states. Other upward biases in the include: 1) underreporting of AFDC benefits reduces the expected savings from CSAP; 2) the CSAP would generate savings not estimated in the simulations, such as reductions in public housing costs and rent subsidies and increased state income taxes; 3) underreporting of child support payments in the SIPP data would probably exceed the amount not discovered as part of the CSAP program; and 4) less than 100 percent of eligible custodial parents would actually participate.

All the CSAP plans would reduce the poverty gap, the numbers of poor families and families on AFDC, and AFDC expenditures. Not surprisingly, approaches that exclude mothers with no support orders can be implemented at much lower cost, but exert less impact on poverty and welfare use. Of the three pure CSAP plans, the high benefit Wisconsin

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[5] The minimum payment for one child is $90 per month, or $1,080 per year, or 10.8 percent of $10,000. Even were the income at the 10th percentile of absent fathers as low as $7,000, states could cover expenses in 90 percent of cases by collecting only 15 percent of income.

[6] Taxpayers with the highest incomes would neither lose nor gain from the change, since the new tax law already phases out the value of their exemptions.

Table 2: Costs and Impacts of Alternative CSAP Approaches

| Costs, Benefits | Wisconsin Model | Low Restricted | Low General | Low General And Tax Credit |
|---|---|---|---|---|
| | (in billions of dollars, thousands of families) | | | |
| Net Outlays | $1.6 | $1.1 | $3.6 | $2.5 |
| Gross Cost of CSAP Component | 3.3 | 2.4 | 8.5 | 8.5 |
| Reduction in AFDC Outlays | 1.7 | 1.0 | 4.0 | 6.0 |
| Reduction in Poverty Gap | 0.9 | 0.4 | 1.3 | 11.3 |
| Reduction in Number of Poor Families | 153 | 81 | 209 | 1,075 |
| Reduction in Number of AFDC Families | 306 | 104 | 328 | 737 |

Source: Tabulations by author from the Survey of Income and Program Participation, waves 4 through 6.

plan channels the highest proportion of net outlays on poor families. It reduces the AFDC rolls as much as the Low General plan costing twice as much. The main drawbacks of the Wisconsin plan are that the benefit levels go beyond replacing what most fathers would owe and that the program's surtax adds a form of income testing to the program.

Combining the low benefit CSAP with a revenue-neutral refundable tax credit would generate the largest impacts on poverty, the poverty gap, and the welfare rolls. The two components would reshape the welfare system. About 1 million families would move out of poverty, the income deficit of the poor would decline by $11 billion, and 30 percent of AFDC recipients would leave the rolls. The vast majority of those left on AFDC would find it much easier to earn their way off welfare. Outlays on AFDC benefits would fall to about half of their current levels. The two components would fill 45 percent of the poverty gap and reduce the proportion of families in poverty by 19 percent. And, despite the absence of direct income testing in either of the two components, the income gains to the poor would be over 5 times the net change in federal budget costs. Of the total income gains received by families who are net gainers from the program, over 60 percent would go to families below the poverty line.

## 6 Conclusions

Liberals and conservatives agree that absent fathers should pay more to support their children and that state governments should intensify their collection efforts. How can policymakers build on this consensus to achieve significant reductions in poverty and reliance on welfare programs?

Certainly, any increase in support payments makes work and independence from welfare more attractive to mothers heading families. Unfortunately, incremental changes in enforcement procedures and in administrative resources can achieve only a modest improvement in the situation for welfare and other poor one-parent families. This is because child support obligations are low and a high proportion of mothers lack any support award. Until now, state agencies have concentrated on increasing the amounts owed under current awards. The job of establishing awards has proved far more difficult and costly.

To reorient the welfare system and improve the income options of poor, one-parent families, the country must move beyond the pure enforcement strategy. One step already under way is the development of income-related standards for setting support obligations.

The best hope for achieving immediate and significant effects is to institute a Child Support Assured Payment (CSAP) program. There is much to learn about the impacts of increased enforcement and a CSAP program. To what extent will earnings of absent fathers be affected? How will increased enforcement affect custody arrangements? Should we encourage in-kind contributions and joint custody arrangements? What share of families will utilize the support supplements to leave (or never enter the welfare rolls)?

While research is worthwhile, we should recognize the potential of linking a low benefit CSAP with refundable personal tax credits. Using the tax credit and CSAP to move families away from welfare programs might not work unless we alter the method of financing medical care for the poor. It would be no great favor to keep mothers heading families off AFDC if the result was to eliminate their eligibility for medical insurance. But, medicaid reform is overdue in any case.

A breakthrough in welfare reform is politically and economically feasible. But achieving this breakthrough will require stretching the new consensus beyond child support enforcement to include a modest assured benefit program and replacing personal exemptions with refundable tax credits.

Mrs. **Kennelly**. Thank you, Mr. Lerman.

Mr. Lerman, I know people appear before this committee obviously firmly believing in what they are suggesting to us. But I know that it wouldn't be simple to do what you just recommended, change the tax credit, change the deduction to a tax credit.

Plus, I think there would be some reaction by people in the middle income brackets who would be paying a higher tax.

So it's hardly revenue neutral.

Mr. **Lerman**. Well, could I just say that I recognize that by itself, by itself, none of these things are very easy to do.

But I think if people have a vision of what they think could be the ultimate impact, if they think that this credit, together with the child support assurance, together with the enforcement policies, could substantially—I mean substantially—reduce welfare rolls and child poverty, then I think you might be able to get support.

Let me just say that for the very highest income taxpayers the shift to credits would have no effect, because exemptions are already phased out. The people that would be affected, of course, would be people in the 28-percent bracket, of whom there are plenty.

But because of the decline in progressivity, in the rate structure, the gap between what they would get as a credit, and what they—what the value of their deductions would be, is nowhere near what it used to be.

Now, it is true that it would be something, and their taxes would go up relative to the absence of change.

Mrs. **Kennelly**. Having lost the credit?

Mr. **Lerman**. What?

Mrs. **Kennelly**. Having lost the deduction, they would also be subject to higher taxes? I don't want to get into it. I can foresee it all.

Mr. **Lerman**. No, they would lose the deduction, but they would get the credit. So the amount they would lose would be on the order of no more than a third of the value of the deduction that they now receive.

Now, I'm not saying it's zero. I'm simply saying that if you have a vision of a system in which what they're giving up buys something, buys something very real in terms of impacts on child poverty and impacts on the welfare system, and potential impacts on this growing underclass problem——

Mrs. **Kennelly**. And you think this would be more feasible than welfare reform, if in fact welfare reform worked the way it should?

Mr. **Lerman**. Well, I hope that welfare reforms works. But we just had a conference in Williamsburg, VA, in which I would say the consensus was that work and training programs, while they're valuable, can add only a little bit to the incomes of these one-parent families.

Child support enforcement, while valuable, can add a little bit more.

But neither—those two by themselves are only going to have a very marginal impact. I think they're both good things. The marginal impact is worth the money, and the marginal impacts will be cost effective.

But if you're talking about having a major impact on the welfare rolls and on child poverty, I think people are going to be disappointed.

Now, again, it may be that Texas and Massachusetts and all these States will do so much better. But you have to realize that even if they do collect, the vast majority of payments, most, in a high-payment State, or even a medium-payment State, that will not get the woman off welfare.

Mr. **Garfinkel**. Could I jump in on this?

Mrs. **Kennelly**. Sure, Mr. Garfinkel.

Mr. **Garfinkel**. Because I agree with Bob that we should adopt a refundable credit, or what other countries call a child allowance instead of the deduction in our income tax for children.

But it seems to me that's a separate issue from child support, narrowly construed as the support for children with living noncustodial parents.

I think he's 100 percent correct that it's very important to have that, and we need a package. Child support by itself, even with an assured benefit, of the kind that would be a zero cost Federal child support benefit in the sense that all the savings from AFDC would be funneled back into the system, and you would only fund the benefit out of those savings so that it would be a zero cost, even that kind of child support assurance system would reduce AFDC caseloads nationally by about 40 percent, and would reduce—sorry, by about 50 percent, and would reduce poverty amongst families potentially eligible for support by about 40 percent.

And that's if we got the child support awards up in all cases. And did much better in collection.

Now, that would be an incredible achievement. And I think Bob's numbers are lower, because I think this is the case, he doesn't have any built in increases in collections or awards, right?

Mr. **Lerman**. Right.

Mr. **Garfinkel**. Okay, now, still, if you reduce the poverty gap by 50 percent, that leaves 50 percent of the problem there. And so the kinds of things that Bob was talking about I think that, I think child care, I think maybe an expansion of the earned income tax credit, health insurance, we need a package of different benefits.

But child support by itself has enormous potential. And if you invest the savings that we are going to get, that are beginning to accrue out of increased collections, if you put those savings back into the system, we will increase paternities, we will increase collections, and we will be able to reduce poverty and welfare dependence just by child support, with an assured benefit by a substantial amount.

And so even if you look at child support in the narrow sense of only support for children with living noncustodial parents, that alone can take us a far way with a zero cost from the Federal Government's point of view.

So I think that's well worth paying attention to.

Mrs. **Kennelly**. Well, Mr. Garfinkel, having gone through months and months and months of hearings and markup on welfare reform, I don't expect zero cost.

We're very aware that Massachusetts employment training program which is commonly used as an example, 50 percent of the moneys spent were for daycare.

You just can't get this, what we're looking for, cheaply.

Mr. **Garfinkel**. No, I agree. I said, you need training; you need child care.

Mrs. **Kennelly**. I think we're coming from the same place. Nothing simple, Mr. Lerman. I can tell you that.

Mr. **Lerman**. I hope I didn't say that.

Mrs. **Kennelly**. Could you tell us though, Mr. Garfinkel, where you are now with the child assurance program in your state? Has it lived up to expectations? I know it's early, but has it lived up to your expectations?

Mr. **Garfinkel**. Well, so far, we've implemented only the key elements on the collection side. They're both now statewide policy.

The child support standard became the presumption in the law as of July 1987, and what we do know is, we have some good news, some bad news, on the standard.

The bad news is that the judges and the family court commissioners are still using the standard only to arrive at dollar orders. They're not making the orders in percentage terms, which means that they're not automatically being updated, which in the long run is very costly.

And second, they're not automatically being reduced if there is unemployment or illness.

Mrs. **Kennelly**. Excuse me, I was going to ask Ms. Bassi, knowing about where those orders are, do you look at those as realistic numbers?

Ms. **Bassi**. Irv's numbers?

Mrs. **Kennelly**. Yes, his State numbers for child assurance payments.

Ms. **Bassi**. Those are pretty much the same numbers I come up with. His are a little bit higher. His is a slightly more optimistic scenario, but I think possibly attainable under the best case.

Mrs. **Kennelly**. Thank you.

Mr. **Garfinkel**. Let me talk about immediate withholding, because we started in 10 counties with immediate withholding in 1984. We went statewide in 1987.

But we have an evaluation design. We had 10 control counties where they weren't doing immediate withholding, although some of them later started doing it.

It was like motherhood at some point, and apple pie.

After 2 years, which is relatively early in the life of a new program, after 2 years depended how we tried to measure the effects.

We could get an effect of an increase in collections from 5 to 25 percent. After 3 years it doesn't matter how we look at it. We've increased collections in the third year no less than 25 percent, and maybe 35 and above percent.

Mrs. **Kennelly**. Let me just ask you one last question.

Could you just, for my edification, expand a little bit more on what you do about the self-employed individual? How is that working out?

Mr. **Garfinkel**. Badly.

Mrs. **Kennelly**. Like everybody else? Same problems as everybody else?

Mr. **Garfinkel**. Same problems as every place else. We, by the way, recommended in 1982, when the Institute for Research on Poverty did the study for the State, we recommended that the collection be turned over to the revenue department.

That was not politically practical in Wisconsin. We were delighted when Massachusetts did it.

I think that's the right way to go. They have lots of experience of dealing with the self-employed. I think that we can actually teach the revenue department one or two things.

Mrs. **Kennelly**. But you still want them to have it?

Mr. **Garfinkel**. I would still like them to have it, yes. And I agree it should be taken out of the hands of the courts. I think that's essential.

Mrs. **Kennelly**. Thank you very much.

Acting Chairman **Downey**. I want to thank the members of the panel. Thank you.

Last but certainly not least, our last panel. From the Children's Defense Fund, Nancy Ebb, staff attorney; National Child Support Advocacy Coalition, Ruth Murphy; National Council for Children's Rights, David L. Levy; and Richard C. Woods, Fathers for Equal Rights.

Ms. Ebb, would you begin, please?

## STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY, CHILDREN'S DEFENSE FUND

Ms. **Ebb**. Mr. Chairman, it is a pleasure to appear here for the Children's Defense Fund. We worked with the subcommittee on the 1984 Child Support Enforcement Amendments. We worked with the subcommittee on H.R. 1720. And we would like to commend you for both and express our support for the child support improvements contained in H.R. 1720. We will continue to work with the subcommittee, and I will, therefore, keep my comments today brief.

I would like to say that it was very encouraging to hear of your concern for maximizing the way the child support can alleviate the poverty of low-income women and children who depend on it. We have included in our testimony several suggestions for how to improve the way that the current system actually does maximize the support available to children who depend on child support.

In 1984, the Child Support Enforcement Amendments required HHS to publish regulations that would require IV–D agencies to obtain medical support awards as well as child support awards. HHS has done so, but those regulations, unfortunately, do not go far enough. What we find is that many families who depend on medical support awards actually do not receive the benefit of those awards, either because the absent parent does not include the child on his insurance plan, or because he does not submit claims on behalf of the child once he has done so, or because he pockets the reimbursement once the insurance company provides payment.

One State, Minnesota, has looked at a particularly creative way of dealing with that. If medical support is ordered, and if an absent parent does not provide verification within 30 days that he or she has obtained health insurance, the State has the authority to order the employer to put the child on the insurance plan and to order deductions from the absent parent's salary to pay for insurance premiums.

The State has also required that insurers deal directly with the custodial parent, thereby avoiding some of the reimbursement problems. This is a particularly creative and novel approach, and it is one that we would urge that you look at as a national solution to some of the problems in medical support.

We would also urge that you look at the problems that custodial parents face in obtaining payments from the State agency once the absent parent has actually paid in money to support the children who depend on child support. What we see in a number of States is significant delays in having the agency pay out what the absent parent has already paid in. This is a particularly acute problem for families who have just gone off the AFDC rolls and who are in a particularly precarious economic position.

What we see in Pennsylvania, for example, in a lawsuit is delays of up to five months before the State agency notified the family court to redirect current support payments to the family instead of the welfare department. This is a terrible problem for families who depend on the $50 disregard, or on support as their sole means of getting by. We would urge the establishment of tighter Federal time lines on how quickly States must pay out support once it has been paid in.

We would also urge that you look at the problem of who gets first priority for arrearages, the State or families once they have left the AFDC rolls. Under current law, States now have the option to retain arrearage payments to reimburse the State for payments that the State has made through AFDC on the family's behalf, instead of giving first priority to arrearages that have accrued and are owing to the family after they left the AFDC rolls. This seems particularly unfortunate if what we are trying to do is to maximize support to those families who are, as I say, in a particularly precarious economic position.

We make other suggestions in general for building on the improvements in H.R. 1720 and the 1984 amendments. I will leave those for you to consider in our written testimony.

I would, however, like to urge you to look at the particular needs of teens in the child support area. It was intriguing to hear testimony about the Massachusetts experience and the emphasis on child support as a collection agency. We agree in many instances that that is an appropriate role for child support. However, it also seems to us that there are particular populations with particular service needs that child support enforcement agencies must be equipped to meet. And teen parents are among those populations with particularly acute needs.

We see a dramatic increase in the number of out-of-wedlock births to teen parents. In 1970, it was 30 percent. By 1985, it had almost doubled to 58 percent. The teen mothers who have children out of wedlock are typically severely educationally disadvantaged and are not able to be self-supporting without some additional supports. The fathers of their children, typically 2 years older, are also educationally disadvantaged and are not particularly well equipped to provide support.

We think it is important, given this increasing teen-mother population, to focus attention on how the child support enforcement agency can address those needs. And while exploration of their needs and how child support can meet those needs is certainly in its infancy, we think there are some useful first steps the Federal Government can take to help address those needs.

First, it can expand the education and outreach requirements that the 1984 amendments imposed on child support enforcement agencies to require that agencies specifically try to reach teen parents and their parents and to educate them about the importance of paternity and child support. We would urge demonstration projects as well to look at how you effectively outreach the teen parent.

Second, we would urge that you take a look at how to eliminate some of the barriers to paternity establishment. We support requiring States to make available procedures for voluntarily acknowledging paternity, a particular problem for teen fathers, who find court systems intimidating, as teen advocates have told us. We would urge that all States be required to have a civil procedure available for contested paternity cases. If it is difficult to persuade a teen mother to pursue paternity, it is especially difficult to urge her to pursue paternity if the price of it is a criminal record for the father of her child.

And we would urge you to look at creative ways of allowing teen parents to meet their support obligations in ways that both meet the family's immediate needs and also enhance the long-range earning potential of the absent parent. One IV-D administrator in Marion County, Ind., took a particularly creative approach to recognizing limited earnings potential of teen fathers. Marion County set up a pilot program of 40 to 50 teen fathers who agreed to a level of support, but whose obligation was suspended so long as they participated in an agreed-upon program of education, employment or training.

The teen mother, if she was on AFDC, agreed to this program and, in return, got the equivalent of a $50 disregard. If at any time the teen father failed to comply with his obligation, then he became subject to the order that had been placed in suspense. This program we see as a very creative way to try to inculcate early responsibility, and at the same time give the absent parent the skills that he needs to help his family become self-supporting. And we would urge further demonstration projects to explore the benefits and the drawbacks of such approaches to inculcating support obligations of teen parents.

Thank you.

[The statement of Ms. Ebb follows:]

STATEMENT OF NANCY EBB, SENIOR STAFF ATTORNEY, CHILDREN'S DEFENSE FUND

Mr. Chairman and Members of the Subcommittee:

I am Nancy Ebb, a senior staff attorney at the Children's Defense Fund (CDF). CDF is a privately-supported public charity that for nearly 15 years has sought to serve as an advocate for poor children and their families. CDF's goal is to educate the nation about the needs of poor children and to encourage preventive investments that will protect and promote their full and healthy development. CDF's work spans a broad range of public policy issues, including family income and child support, health care, education, youth employment, child care, and specialized services that are essential to the well-being of the next generation and to the future of the nation.

I am pleased to have the opportunity to appear before the Subcommittee today on behalf of CDF to discuss with you some of our concerns as we look to the future of child support enforcement. CDF worked closely with members of the Subcommittee in the development of the Child Support Enforcement Amendments of 1984. We published The Child Support Advocacy Manual, a guide to implementation of the 1984 Amendments, and have continued to monitor implementation of the Amendments through contacts with public officials and advocates in numerous states and communities. Our understanding of the problems impeding full implementation of the 1984 Amendments has been heightened by our role as co-counsel in Hartmann v. Lukhard, a class action lawsuit challenging the state of Virginia's failure to fully implement the 1984 Amendments' requirements for wage withholding.

Before setting forth some issues and suggestions for a future child support enforcement agenda, I want to commend the Subcommittee for the steps you have already taken in this Congress toward ensuring that many more children will benefit from parental support. CDF shares with you the belief that all children have a right to be supported to the fullest extent possible by their parents, and that government has a responsibility to help protect and enforce that right. The child support provisions in H.R. 1720, The Family Welfare Reform Act of 1987, address many of the barriers that have prevented poor children from benefitting from child support: the too-frequent failure of child support agencies to pursue paternity establishment; the inadequate benefits received from child support awards; and severe management problems that often deny children the support they are due. We will not address the specific changes in H.R. 1720 today, other than to say that we hope we will have the opportunity before the end of this year to see many of these improvements enacted.

This morning I would like to do two things. First, I want to urge the Subcommittee as it looks to the future to give special consideration to ways to increase and improve paternity establishment and child support enforcement services for children born to teen mothers. The demographic trends in adolescent childbearing and the economic and other problems that face young mothers and their families make paternity establishment and child support enforcement important, but largely unexamined, issues for these young families and their children. Second, I want to address several additional areas where further improvements are needed if poor children are to benefit fully from the child support enforcement improvements enacted in 1984 and those currently being sought.

## Addressing the Child Support Needs of Children Born to Teen Parents

When we look at demographic data, we see in the figures on births to teens several recent trends that place teenagers with children at particular disadvantage, and that create special challenges for the child support enforcement system that must be confronted over the next decade. Those data are fully described in Child Support and Teen Parents, a recent report of CDF's Adolescent Pregnancy Prevention Clearinghouse, which I would like to submit for the record. Today I'd like to describe the data briefly and then suggest some steps that can be taken at the federal level to help children born to teen parents benefit from child support.

Teenage mothers today are disproportionately likely to bear children out of wedlock and to raise their children in homes from which the father is absent. In 1970 about 30 percent of all of the births to teenagers were to unmarried teenagers. By 1985 this proportion had almost doubled, reaching 58 percent. Unmarried teenagers accounted for 90 percent of births to black teenagers in that year, 56 percent of births to Hispanic teens and 45 percent of the births to white teenagers. For younger teens, the likelihood of being married when the child is born is even lower. About two-thirds of teenage parents between the ages of 15 and 17 were unmarried, compared to half of those who were 18 and 19.

Being married before the child is born is far from a guarantee that the teen will not be a single parent. Young mothers (14 to 17) who are married when the child is born are three times more likely to divorce or separate than are married women who are in their twenties when their children are born.

The increase in single parenthood among young teens means that young mothers are particularly likely to need child support, including a disproportionate need for paternity establishment services. Child support is especially critical for young families headed by women who become mothers as teenagers because they are much more likely to be poor and remain poor. Three out of four single mothers younger than 25 were poor in 1986. In 1985 fully 80 percent of the mothers younger than 30 who received payments from the Aid to Families With Dependent Children (AFDC) program had been teen mothers (although they had not necessarily received AFDC continuously), compared to fewer than 40 percent of all mothers younger than 30.

The poverty of this group is not surprising given the fact that they frequently are educationally disadvantaged. Only half of the teenagers who have a child when they are minors (younger than 18) finish high school, compared to 9 out of 10 of those who wait until they are at least 20 to have a child. Low academic skills and problems with school are strong predictors of early parenthood. Young women ages 16 and 19 who have low basic academic skills are -- regardless of race -- three times more likely to have children than are those who have average and above average basic skills.

These educational deficiencies put young mothers at a great disadvantage in today's labor market, which also contributes to their poverty. Many more employers today demand a high school diploma and some college compared to earlier decades. Even when young mothers find jobs, they are likely to earn lower wages than their peers. The lifetime earnings for a female high school dropout are less than half those of a female college graduate. Their jobs are also less likely to provide them with health insurance for themselves or their children. The need for child care can also pose a barrier to work or school.

Although limited national data are available on young fathers, smaller studies have shown that young fathers have many of the same educational and economic problems as young mothers. Research indicates that fathers of children born to teen mothers are often not themselves teenagers, but many are young men who on average are two years older than their female partners.

Data indicate that 18- and 19-year old males with poor basic skills are three times as likely to be fathers as are those with average basic skills. Young fathers with such educational deficiencies also face bleak economic prospects. For example, young men between the ages of 20 and 24 who had not completed high school suffered the largest percentage drop in their real annual earnings from 1973 to 1984. Young black male dropouts experienced a 61 percent drop in real earnings during that same period. By 1986 only one-fourth of all male high school dropouts and graduates not enrolled in college were married and living with their spouse by age 22; in 1974 more than half of such young males had married.

As we look at the future of child support, teen mothers, in part because of their status as minors, and the fathers of their children require special attention because they are disproportionately low-income or unwed compared to other users of the child support enforcement system. The development of child support approaches that are sensitive to the needs of all parties involved will not be easy. Generally, with few exceptions, state and local child support agencies have ignored the needs of these young parents and their children. These agencies must now work closely with organizations experienced in serving teens in order to develop methods for reform that will reach them fairly and effectively. We must proceed slowly but deliberately to develop a system which can appropriately serve these young families.

### Education and Outreach

Teens and teen parents need extra help to become aware of their rights and obligations in the areas of paternity establishment and child support and of the interests and rights of their children. The 1984 Amendments require state agencies to conduct public education campaigns on child support services and provide federal matching funds for doing so. We recommend that there be a requirement that such outreach and public education efforts be in part aimed specifically at teens, both male and females, and to parents of teens.

Federally supported demonstration programs should also be established to support special outreach efforts on child support and paternity for teens and young parents. Such efforts could be focused on day care centers and education programs, or be conducted in conjunction with school, PTAs, churches and youth athletic, recreation and job training programs. Special efforts could also be undertaken to ensure that young parents who are receiving AFDC learn about their rights and responsibilities relative to child support. Teen mothers who are themselves heads of households should receive this information through their AFDC caseworkers. However, other teen mothers who are 18 or under may be receiving AFDC as part of their own parents' grant. In such cases, the teen mothers, often minors, may have little direct contact with the caseworker and have less information available to them. Teens must have information on their full range of options and the long-term benefits and consequences of each.

### Paternity Services

Fifty-eight percent of the babies born to teen mothers are born out of wedlock (90 percent for teens younger than 15 and 71 percent for teen mothers 15 to 17). Therefore, paternity establishment is the key entry point to child support for children of teen mothers. Paternity establishment, however, is also critical to the child's eligibility for other public and private benefits stemming from the father-child relationship. These may include such things as Social Security or veterans' benefits, other public and private insurance benefits, and inheritance from the father, as well as identity issues of later importance to the child. For all these reasons, careful consideration must be given to facilitating paternity establishment.

The problems surrounding paternity establishment for young parents are part of a much larger paternity problem. Statistics for the general population suggest that less than one-quarter of all women who have babies out of wedlock have had paternity established. This low rate undoubtedly helps explain the fact that in 1984 fewer than 18 percent of never-married mothers had child support orders, as contrasted to 61 percent for all mothers of children whose fathers are absent. It is significant, however, that when paternity is established and awards ordered, 76 percent of unmarried women received some payments -- showing significant potential for child support payments to children born to unwed parents.

The 1984 Amendments began to address some of the barriers to paternity establishment. For example, extending state statutes of limitation so paternity may be established at any time at least until the child's eighteenth birthday means that a mother who delays establishing paternity or faces delays by the state will not be foreclosed from pursuing it later. The clarification in H.R. 1720 as to the retroactive application of the 1984 change has implications for many children for whom paternity had been foreclosed because of strict statutes of limitation. State agencies should be required to review any cases closed prior to 1984 because of the expiration of a previous statutes of limitation.

Other barriers to paternity establishment that loom particularly large for children born to teen mothers should also be addressed. First, many states do not provide simple administrative procedures for fathers who want to acknowledge paternity in a formal and legally binding way. In some states the males must go to court even when they want to voluntarily acknowledge paternity. Such court appearances may be particularly intimidating for young men. The costs of contested court proceedings may also deter states from pursuing paternity, particularly when the support benefits are expected to be minimal as they often are with young fathers. In states where fathering a child out of wedlock is itself still a crime, the situation is even worse, since the only way to establish paternity is through a criminal proceeding. In these states, the parents will be especially reluctant to proceed for fear of giving the father a criminal record.

The Subcommittee should consider requiring that states establish administrative procedures for the voluntary acknowledgment of paternity. Care must be taken to ensure that these administrative forums afford fathers the full range of due process protections to which they are entitled, including a full explanation of the rights and responsibilities that accompany paternity establishment. Second, states should be prohibited from assigning consistently low priority to paternity cases based on their short-term financial prospects. As further steps are taken to perfect incentives to encourage paternity establishment, consideration should be given to special incentives that could be awarded for paternity establishment in cases of young families. Finally, careful scrutiny should be given to the extent to which the costs associated with paternity establishment may discourage teen parents from using the IV-D system. Federally-supported demonstrations could be useful in this area.

## Enhancing Awards

The challenge of setting fair awards for children of teen parents is another one which must be confronted. CDF believes this is a sensitive area requiring a balance between the short- and long-term interests of the child and those of each young parent. Child support enforcement alone will yield little benefit without some aggressive efforts also to improve the long-term economic prospects of both parents. This may require special arrangements for a young father who is still in school and either has no earnings or only limited earnings from a part-time job, but who may be enhancing his long range economic prospects. Similarly, imposing an arbitrary and substantial monthly support obligation on fathers who cannot find a job without additional training or skills yields little for the child.

Guidelines established by states for determining parental support, generally advantageous when establishing awards, most often assume the availability of adequate income. Too frequently they fail to address the issue of limited overall income, and fail to take into account young parents' current earnings and resources and school or training status. Federally supported demonstrations could help states experiment with temporary child support orders and innovative services that allow young parents to make modest payments while finishing school or training and thereby enhancing their ability to support their children over the longer term. In such cases, fathers also could be required to supplement cash contributions with in-kind support, such as child care, for as long as they were enrolled in the special program. Participation in the program could constitute an in-kind contribution that would entitle a custodial parent to a $50 disregard if she is receiving AFDC. The state and child could then return to court seeking a permanent and more substantial order based on the father's earnings when he has completed his education and training. Demonstrations would document the benefits and drawbacks of approaches which leave any substantial child support obligation in abeyance, and would suggest administrative steps that must be followed to ensure that increased resources for the child will be generated in the long term.

## Establishing Beneficial Child Support Awards

Our recommendations relating to child support and teen parents are focused on providing for the future economic stability of the children in these young families. It is in this same vein that I now want to raise several additional suggestions to increase the likelihood that child support will provide a more reliable source of income and support for all children in low-income families.

### Obtaining Medical Support

H.R. 1720 takes important steps toward ensuring the adequacy and regularity of child support by requiring that uniform guidelines be established and updated, by requiring a mechanism for updating individual orders, and by mandating immediate wage withholding. However, further steps must be taken to ensure that child support orders include medical support whenever health insurance is available to the non-custodial parent, and that families have access to insurance help through the medical support provision.

The Child Support Enforcement Amendments of 1984 required the Department of Health and Human Services (HHS) to issue regulations mandating that state IV-D agencies petition to include medical support as part of any child support order whenever health care coverage is available to the absent parent at reasonable cost. This provision helps offset state and federal costs for families whose health needs are otherwise met through Medicaid, and provides badly-needed health coverage for IV-D children who are ineligible for Medicaid. Many of these children will not have access to health coverage unless it is provided, either through Medicaid or through an order of medical support against the absent parent. Data from the March 1984 Current Population Survey show that 33.2 percent of children living in female-headed households are uninsured -- almost triple the rate of uninsuredness (13.7 percent) for children living in married couple families.

The regulations published by HHS in October 1985 require states to "take steps to enforce the health insurance coverage required by the support order" if health insurance has not been obtained at the time an order of medical support is entered. While these regulations are useful, they do not go far enough.

First, they fail to require states to take any specific steps to ensure that insurance is actually purchased. And second, they do not require that information be provided to the custodial parent regarding the extent of the insurance coverage and appropriate methods for obtaining insurance benefits.

It appears that there are significant problems with ensuring that non-custodial parents actually obtain health insurance for their children after they are ordered to do so. In an informal survey of child support advocates by the NOW Legal Defense Fund, forty-six percent of respondents indicated that their state or local child support agency's performance in the medical support area was "poor." CDF also has been contacted by custodial parents who complain that the non-custodial parent has been ordered to provide medical support for the children, but refuses to add them to his policy or makes it difficult for them to benefit from the policy once they are covered.

Such problems seem to be intensified by the fact that many non-custodial parents and insurers fail to cooperate with custodial parents seeking to benefit from insurance coverage for their children:

- One parent, the mother of a handicapped child, reported to CDF that the child's father had added the child to his insurance policy. This coverage was significant because of the child's recurrent need for medical attention. However, the absent parent repeatedly failed to submit the claims to the insurer after the mother provided him with medical bills. On a number of occasions, he submitted the bills but pocketed the reimbursement instead of forwarding it to the custodial parent. The insurance company refused to deal directly with the custodial parent.

One state, recognizing both the IV-D agency's problems with enforcing medical support and the problems both custodial parents and the state Medicaid agency experienced in collecting benefits from the non-custodial parent's insurer, has taken a creative approach that should be examined as a national model. Since 1985, Minnesota has required that a non-custodial parent provide the state child support enforcement agency with proof that he has obtained medical coverage for his children within thirty days after an order for medical support has been issued. If the non-custodial parent fails to do so, the agency has legal authority to issue an administrative order requiring the children to be added to the parent's insurance policy and requiring the employer to deduct premiums from the parent's paycheck. Similarly, the state has enacted legislation requiring insurance companies (other than those exempted under ERISA) to deal directly with the custodial parent, allowing the custodial parent to submit claims and requiring the insurer to reimburse the custodial parent rather than the absent parent.

We urge the Subcommittee to consider adding to federal law requirements that will ensure medical support is actually provided when it is ordered, and that will facilitate efforts by the custodial parent to collect benefits from the insurer.

### Improving Parent Locator Services

The 1984 Amendments created powerful enforcement mechanisms for the collection of child support. Yet these mechanisms are useless if the IV-D agency cannot find the absent parent. To improve collections over the next decade, significant advances must be made in locating absent parents. While we are intrigued by the Administration's own recommendations for improved interstate parent locator efforts, we urge you not to neglect improvements that are needed in the parent locator efforts required within states.

Currently, state parent locator services are not required to ask a custodial parent about the whereabouts of the absent parent, even though (as a number of federal audits of state child support programs point out) the parent may be the most effective source of information. In fact, our own experience in Virginia tells us that in some cases parents have tried to inform the IV-D agency of a change in the absent parent's address or place of employment and have been ignored. Federal regulations also fail to clearly require that states make periodic and continuing searches for absent parents after the initial search fails to locate the parent. Some states make a single attempt to locate an absent parent by searching all available data bases, then treat the case as suspended or closed if those produce no leads. Other states, on the other hand, recognizing that many data sources such as quarterly wage reporting systems are updated regularly, periodically resubmit names of absent parents for searches.

Improvements in parent locator services are critical to the successful implementation of wage withholding requirements. Under current law, states must immediately notify the absent parent of intended withholding as soon as payments fall thirty days in arrears. This requirement assumes that the IV-D agency knows where the absent parent is and can therefore notify him. Yet we have discovered in Virginia that, while the number of cases thirty days in arrears is enormous, the number of cases in arrears where the state has current information about the address and employment of the absent parent is relatively small. Currently, however, there are no regulatory requirements that state agencies undertake prompt parent locator efforts when child support payments fall in arrears and the whereabouts of the absent parent are unknown. Rather, there is simply a regulatory requirement that necessary parent locator services be provided within sixty days after an AFDC case is first referred to the IV-D agency, and within sixty days after a non-AFDC case is opened. Moreover, if the absent parent is successfully served and wage withholding initiated, there is nothing to trigger parent locator services if he later drops out of sight.

Such problems will continue even if a requirement for immediate wage withholding becomes law. Although states will be more likely to have current information about the absent parent at the time the initial order is entered, problems will arise if the absent parent subsequently disappears. Moreover, cases under old orders that are subject to withholding after thirty days rather than to immediate withholding will continue to face the locate problems.

We urge the Subcommittee to require that HHS take steps to improve the quality of state parent locator efforts, including requirements for periodic and continuing parent locate efforts if initial attempts are unsuccessful. Specific requirements should be imposed for locating absent parents in a timely fashion when wage withholding is pending. For example, when payments are in arrears the current sixty-day standard in the regulation governing provision of locate services when families first become eligible for IV-D services is simply inappropriate. Experience shows that states are capable of much prompter response times. Utah, for example, a state that operates one of the most effective parent locator services, locates non-custodial parents in-state within an average of eight days from the time the case is referred for parent locator services. More meaningful federal timelines are necessary.

## Facilitating Prompt Distribution of Child Support Collections

For families that rely on child support to help meet basic needs, delayed child support payments threaten an already precarious family budget. It is bad enough when the non-custodial parent fails to make timely support payments. It is even worse when the state agencies charged with enforcing support obligations fail to distribute child support promptly. Yet states frequently fail to pay out promptly to custodial parents what absent parents have paid into the state on behalf of their children:

- One AFDC parent whose ex-husband paid child support on a fairly regular basis was entitled to sixteen $50 disregard payments. The state IV-D agency failed to make timely payments of the pass-through for over a year. Meanwhile, the mother fell behind in her rent, and was threatened with eviction.

Families that have just left the AFDC rolls are especially vulnerable economically. It is in states' interests to ensure that they receive child support promptly and regularly in order to remain self-sufficient. Too often, however, payments are not promptly redirected to the family, and are retained by the state, creating economic hardship on the family.

- In a Pennsylvania lawsuit challenging child support payment delays for families leaving AFDC, the court found that in one three-month period there were seventy-six cases in which the state welfare agency took an average of 164-178 days to notify the Family Court that families were no longer receiving AFDC and that current support payments should therefore be made to the family instead of to the welfare department. During this period, the Family Court routinely paid to the welfare department current support paid on behalf of families who were no longer receiving AFDC, instead of giving the support to the family. In seventy-three of the cases in which support was improperly paid to the state instead of to the family, it then took an average of 279 days for the welfare department to authorize a refund, and an additional four to eight weeks to send a refund to the family.

Current federal regulations give states inadequate guidance about how quickly they must process and distribute payments. In the case of the $50 disregard and money collected through income withholding, the regulations contain a vague incantation that states distribute payments "promptly." Yet the regulations never flesh out what "promptly" means, and otherwise are silent as to states' general obligation to pay money to custodial parents in a timely fashion. This lack of federal guidance harms families.

We urge the Subcommittee to seriously consider requiring HHS to develop regulations that will more specifically define what constitutes timely distribution by the state for families entitled to the $50 disregard, for families who have just left the AFDC rolls, and for other child support collection and distribution functions.

### Increasing Support for AFDC Families and Former AFDC Families

Additional steps must be taken to ensure that families actually benefit from child support while they are on the AFDC rolls. Enabling an AFDC family to keep a portion of the child support collected, as was authorized in 1984, may motivate custodial parents to cooperate more fully with enforcement efforts and may provide absent parents with greater incentives to make payments because they will see their children, and not just the state, benefit from such payments.

Many AFDC families, however, still continue to be denied the $50 child support disregard. H.R. 1720 will clarify that the disregard should extend to all payments that are made on a timely basis by the absent parent, even when they are not forwarded by the court or agency in a timely manner and as a result are not credited to the IV-D account in a timely fashion.

This clarification, however, still denies the benefit of the disregard to families when an absent parent delays payments but ultimately fulfills his obligation.

- One absent parent in Maine, for example, made payments on a quarterly, not a monthly, basis. He was obligated to pay $20 per week in support ($1,040 per year). He paid the state $180 in June, 1985, $340 in September, 1985, $260 in December, 1986, and $260 in March, 1986, or $1,040 in payments made on a quarterly basis. Maine gave the family only four $50 disregard payments for the months of June, September, December, and March, despite the fact that the absent parent had paid the proper amount of support for an entire year.

It seems unfair to deny a child the benefit of the parent's payments based on when the parent makes them.

Moreover, given states' dismal enforcement records, it seems inappropriate to reward states for their failure to take prompt action to collect current support by limiting the disregard to current support. Currently, states can collect arrears in a lump sum and thereby avoid having to give AFDC children the benefit of support collected on their behalf. For example, if the federal government uses a federal tax intercept to recover back payments, a process that requires only a minimal expenditure of state effort, no portion of that benefit will go to benefit the children directly.

We urge the Subcommittee to consider amending Section 457 of the Social Security Act to clarify that a family is entitled to a disregard for any support collected, whether it be current support or arrears, and that if the support is collected as a lump sum the family should be entitled to a disregard for each of the months of child support that the lump sum represents. An increase in the size of the disregard from $50 to $100 for purposes of both AFDC and Food Stamp eligibility and benefit calculations would also make it more meaningful for children on AFDC.

Efforts are also needed to ensure that former AFDC families who leave the AFDC rolls are paid current support and arrears owing to them before states can retain arrearage payments to offset the debt owed to the state on their family's behalf. Congress, in the 1984 Amendments, expressed special concern about helping former AFDC families achieve self-sufficiency when they leave the program. For example, the Amendments extended Medicaid and child support enforcement services to former AFDC families for a mandatory period. The current policy governing assignment of child support rights by AFDC families, however, undermines the self-sufficiency of these families by potentially putting them last in line to collect income from the payment of arrearages.

According to HHS' interpretation of current law, the assignment of arrears a family makes when it becomes eligible for AFDC continues even after the family leaves the AFDC rolls (although the family then has the right to collect current support before the state collects arrearages). This assignment includes support owed the family before they applied for AFDC as well as support obligations that accrue after they begin receiving AFDC. Until December of last year, there was a mandatory five-month extension of child support services after a family left the AFDC program. At the end of that period a state was required to continue providing IV-D services unless a parent opted out of the program. During the five month transition period the state had to pay current support and also arrears that accrued during the five-month period to the family before the state could retain any payments of support to offset costs of providing AFDC to the family. At the end of the five-month period states could choose whether to give priority to arrearages owed the family or to arrearages owed the state.

The Omnibus Budget Reconciliation Act for FY 1988 eliminated the five month transition period, although it retained the requirement that states provide continuing IV-D services to former AFDC families. Because of the way this change was made, it appears that currently, as soon as families leave the AFDC rolls, states can choose to keep past due support payment to pay back arrears owed to the state instead of paying them to the family to make up for missed support payments owed to the family. Such a policy works an extreme hardship on families that have recently left the AFDC rolls. Families struggling to be self-supporting must make sacrifices when they fail to receive current support, and then cannot regain any lost ground if and when the absent parent pays arrearages.

- One Georgia woman, for example, removed herself from the AFDC rolls when it appeared that child support payments offered her a steady source of income. Her ex-husband subsequently stopped making regular payments. He did not make payments for a year, resulting in arrearages in excess of $2,000. The mother chose not to return to AFDC. She finally found minimum wage employment, which was entirely consumed by monthly payments for shelter, food, heating oil, and car payments. She incurred substantial debts during the time she was not receiving child support, including approximately $800 in back rent. Her thirteen year old son had back problems that went untreated because she could not pay for medical care (and her job did not provide health insurance).

  Her ex-husband finally paid $1,000 in child support. However, the mother only received $40 because Georgia gave priority to the state for arrearages owed rather than to the mother for arrears that accrued after she left AFDC. The rest of the $1,000 went to the state to reimburse it for past AFDC payments on behalf of the woman and her son. Given her limited income, the mother was unable to make up for the debts that built up while she was not receiving support.

We strongly urge the Subcommittee to re-examine current federal policies, which penalize former AFDC families who are among those hardest hit when child support payments fall behind. Arrears that accrue after the family leaves the AFDC rolls should always have priority over arrears owed to the state and should go, along with current support, directly to the family. Further, once a family leaves the AFDC rolls, the right to arrearages that accrued before the family began receiving AFDC should also revert to the family to compensate them for hardships they endured before they began receiving assistance from the state.

CDF does not believe that we can consider making child support the cornerstone of an income assurance system for families and children until significantly greater progress has been made in ensuring that all children receive the maximum support to which they are fairly entitled. We will have to make significant improvements in paternity and child support enforcement services for young families. We also need to build on the guarantees of the 1984 Amendments and pending reforms to ensure that child support awards actually benefit the children for whom they are intended. To achieve this goal we must pursue many strategies. CDF looks forward to continuing to work with the Subcommittee to strengthen our nation's child support enforcement system and to ensure that millions of children are able to benefit from it.

Acting Chairman **Downey**. Thank you.
Ms. Murphy.

## STATEMENT OF RUTH E. (BETTY) MURPHY, PRESIDENT, NATIONAL CHILD SUPPORT ADVOCACY COALITION

Ms. **Murphy**. Thank you very much, Mr. Chairman.

My name is Betty Murphy, and I am the president of the National Child Support Advocacy Coalition and chairperson of the Virginia State Child Support Advisory Committee. The national coalition is an alliance of independent grassroots child support organizations throughout the United States, many of whom have representatives on their State child support committees.

I have been attending the hearings and share some of the questions that the committee asked on Tuesday about the impact of the 1984 amendments on the 1987 collections. We found it strange that OCSE failed to make current, relevant data available before the hearings since all States had reported fourth quarter 1987 collections by mid-December.

The national coalition has requested the same information in preparation for this hearing through the Freedom of Information Act. Despite obstructions and delaying tactics by OCSE, we did obtain the 1987 information through alternative methods. The last three pages of our testimony contain three tables comparing 1986 and 1987 collection totals for your review. These tables were based on copies of the actual fourth quarter reports.

On Tuesday, Mr. Harris said 1987 collections were up about 20 percent from 1986 to just under $4 billion. Our analysis differs a bit. Actual State reports show an actual increase of 16.6 percent, not 20 percent, for a total of $3.79 billion. This 16.6 percent does not quite compare with the 21 percent increase in 1986 over 1985.

Another important fact is the 16.6 percent increase was accompanied by a 14 percent increase in total cost. Hardly the increase deficiency we had hoped for.

These three tables not only show changes in total AFDC and non-AFDC collections from 1986 to 1987, but also the source. There is no doubt that we welcome a $538 million increase, but we are certain that some collection programs are being underutilized for the non-AFDC client.

Table 2 shows 133 million, or a 10.9-percent increase in AFDC collections. However, we understand that nearly half of that increase came from the IRS tax refund intercept program, not from actual State enforcement against the absent parent. This program is not being used effectively for the non-AFDC client.

Table 3 shows a 20 percent increase in non-AFDC collections, $404.6 million. Over half of this increase was in just six States: California, New York, Ohio, Pennsylvania, Virginia, and Wisconsin. Mr. Harris was probably correct when he expressed the view that much of the non-AFDC increase in collections is due to ongoing collections of cases that were previously handled by local courts. Many of these cases were trouble-free cases and did not require any enforcement effort on the part of the State IV–D agency.

Preliminary data shows that interstate AFDC collections increased by $7 million in 1987. I do not believe that this quite meets the expectation Congress had when they authorized millions each year to go to interstate demonstration projects. OCSE has failed to publish any reports or results for the public on these projects, and we were denied access to any information on how the 42 million earmarked by Congress was spent over the past three years. Congress authorized $15 million in 1988, and we would like to know how this $15 million is being spent.

Congress had the foresight to recognize the interstate problem as one of the most crucial, ongoing problems that cannot be solved overnight. Yet OCSE cut several interstate projects midstream in their second year funding. Organizations like ours need current, undigested information in order for us to try to goad nonproducing States to get moving. Our best argument is: See how well State X or county Y is doing. Denying and delaying access to official public State-supplied data, even the insult of charging us for the data, is uncalled for; and to do so only casts a shadow of suspicion over the information that is released by OCSE. This new siege mentality of OCSE is something we with this subcommittee would try to change.

To accomplish the element of equality in enforcement of AFDC and non-AFDC cases, Congress not only equally divided the 12 percent incentive, but also extended the IRS intercept program to non-AFDC clients. These two provisions have been abused by some States. Congress established a cap on incentive money that has turned into a disincentive. Once the incentive cap is reached, many States reduce or eliminate their enforcement services to non-AFDC cases. I ask you to turn to page 3 for an example.

The State of Texas is denying services to all non-AFDC clients, both in State and out of State, for 12 to 18 months. Certainly, there must be another way to handle this situation. I cannot believe State Attorney General Jim Mattox expects Congress to approve his actions.

The IRS tax refund intercept program is one of the few ways that families of self-employed absent parents and cases that suffer from judicial discretion can hope for some relief. Although OCSE admits there is no Federal regulation requiring non-AFDC clients to file an annual application for this service, OCSE developed a one-page application form and encourages States to use it. States that follow this advice and fail to publicize the need for the non-AFDC client to file yearly restrict their IRS submittals to primarily AFDC cases. If all non-AFDC cases with arrearages were submitted, I am sure we would see a significant increase in collections.

The State of Nevada has taken the one-page form and has expanded it to three pages with additional State criteria, further ensuring non-AFDC ineligibility. The IRS program has also brought to light that there is an increase in absent parents obtaining false Social Security numbers and avoidance of filing Federal tax returns. If they can get away with one crime, why not another, is their attitude.

I show you an example of a woman whose ex-husband had been missing for 16 years, living under a false identity and false Social Security number. Her case is presently before the Florida Supreme Court and will be heard on April the 1st.

We request that this subcommittee review this program in depth to evaluate why States continue to fall short of complying with Congress' intention of providing equal services to the non-AFDC client. New audit changes effective, October 1, 1987, require States to redirect manpower from enforcement to unnecessary copying of files to be forwarded to a regional office. This deviation from past audit procedures did not receive concurrence from Inspector General Richard Kusserrow. It is in direct violation with GAO standards and audit regulations.

Thirty-seven IV-D directors expressed their concerns to Mr. Stanton in a letter dated, December 18, 1987, from the National Council of State Child Support Enforcement Administrators. Their major concerns were: inability to meet requirement for complete and accurate statistical data that can only be accomplished through automation; diversion of people resources from establishment and enforcement to duplicate cases. The national coalition is concerned with the violation of confidentiality the duplication of files represents and the thousands of hours diverted from enforcement.

The reorganization of OCSE has redirected the focus that the 1984 amendments set out regarding non-AFDC. Slowly, OCSE has been reassigning child support personnel to other agencies within FSA and replacing them with OFA welfare-oriented personnel. This in-house move, plus the other AFDC-motivated procedures mentioned in my testimony, leave very little room as to what direction the new Family Support Administration agency is going. The intent of Congress to encourage equal services to non-AFDC is obviously being undercut by the very agency that is charged with oversight and guidance to the States.

States are allowed to collect fees and costs above the application fee. We wonder why States have chosen to penalize the children by deducting the cost from the children's money. If anyone, it should be collected from the child support evader. I call your attention to an article from a Florida newspaper. A custodial parent was charged for using a toll-free State hot-line; in addition, she was also charged for the time that her State representative spent in consultation with her caseworker. This $127 was deducted at 10 percent from her monthly child support collection.

Non-AFDC cases, especially out-of-State URESA cases, are consistently given low priority by prosecuting attorneys. Aside from the disadvantage of being a nonresident, nonvoter lacking political clout, this crime that meets the monetary requirements for a felony continues to be classified as a misdemeanor. Until the gravity of this crime of economic child abuse is acknowledged, the child support problem will continue to increase.

You will find my recommendations on page 10. I submit them in hope that we do come forward with some good results from your report.

Thank you.

[The prepared statement and an attachment follow:]

## STATEMENT OF RUTH E. (BETTY) MURPHY, PRESIDENT, NATIONAL CHILD SUPPORT ADVOCACY COALITION

### INTRODUCTION

Mr. Chairman and members of the Committee, the National Child Support Advocacy Coalition thanks you for this opportunity to express the views of child support recipients across the nation. Those who are entrenched in the child support program can best render a more accurate evaluation of the status of the 1984 Child Support Enforcement Amendments. We know which methods are working and which are not.

The National Child Support Advocacy Coalition (NCSAC) is an alliance of independent grassroot child support advocacy groups throughout the United States. NCSAC is structured much like the Child Support Program. Our home office is in the Washington, D.C. area, which allows immediate access to our federal legislators and the Office of Child Support Enforcement (OCSE). Each state represented has one or more independent advocacy organizations, which focus on problems specific to that state. NCSAC acknowledges the diversity among states and directs attention accordingly. Individualized groups with a single focus accomplish more by concentrating their energies in their own states. This approach assures personal credit for their achievements and promotes self-growth.

A controversial issue, such as child support enforcement, demands a willingness to network and share acquired knowledge with all child support advocates. Several NCSAC member groups are represented on State Child Support Advisory Commissions. Our "hands-on"experience along with our working knowledge of the system has effected a more realistic approach to a very complex issue. Practical application makes more sense in the area of support enforcement than the theoretical approach more commonly taken by respected officials.

Networking nationwide affords us a unique opportunity to create an awareness of interstate problems. NCSAC works closely with State and local court personnel towards a mutual understanding of each other's perspectives,expectations, and constraints. As child support advocates, we want the system to work.

The majority of requests for help that NCSAC receives involve URESA cases. The message is the Uniform Reciprocal Support Enforcement Act (URESA) is still not working, even with the multiple improvements of the 84 Amendments. Support orders are not being enforced. Support is not forthcoming. Children are suffering from neglect and abandonment at the hands of the non-custodial parent. Economic child abuse continues to rise.

The last improvements made to the URESA was in 1968. Twenty years have gone by and child support evaders have risen above the less sophisticated times of the 60's. We are living in a high tech age and being ruled by antiquated laws. The increased complexities of child support cases have relegated URESA to an enforcement method of last resort. The real clincher is that URESA is not UNIFORM. No two states' URESA laws are exactly alike. Let us strive to make the Uniform law more UNIFORM.

The 84 Amendments were thought to be a panacea, but to our dismay new obstacles were created. Since others will probably address the URESA Act itself, I would like to call your attention to these other factors:

### INCENTIVE CAP:

Granting equal incentives to states in their efforts to work AFDC and N-AFDC cases appeared to be a great step forward. N-AFDC clients were estatic. The one drawback was the incentive cap placed on AFDC collections. N-AFDC cases carry larger support awards and, even far larger arrearages. Fewer cases have to be worked to reach the AFDC total. Therefore, the question arises to whether equal services should apply to COLLECTIONS or NUMBER of cases worked.

For example, The State of Texas 1987 AFDC collections totalled $23 million and N-AFDC collections totalled $60 million. The incentive payment was capped at 105% of the $23 million and no incentives received for the remainder of N-AFDC collections. As a direct result of this, what was considered to be an incentive became a *disincentive*. Texas State personnel were ordered to discontinue enforcement action on *all* N-AFDC cases. *"NON-WELFARE CASES WILL BE WORKED WHEN AND IF TIME ALLOWS"* was the message local and out of state child support recipients received. This appears to be very hypocritical, since Texas Attorney General James Mattox presented a different message when testifying before the Senate Finance Committee on Feb. 4, 1988. Atty. Gen. Mattox stated "..I submit that the most significant improvement that can be made is to shift the burden for collecting child support from the custodial parent to the state. Once an initial complaint is filed pertaining to the failure to collect child support, the state must bear the obligation to collect child support on an ongoing, regular basis.... This is not only in the best interests of the children, but it is the law in Texas; it should serve as a model for the entire nation....Once an arrearage occurs for any reason, and upon a complaint by the custodial parent to the IV-D agency, it then should become the responsibility of the state to collect child support payments - rather than placing the burden of subsequent complaints on the custodial parent."

In fact his testimony was so well received that at the end of the hearing he was invited to speak further and offer his respected recommendations. (see letters and articles on next page)

Within the next 12 to 18 months, we can be assured that many of the present N-AFDC clients living near poverty now, will become Welfare recipients. Based on prioritization, these cases will probably be worked because they will require fewer services. This will result in increased AFDC collections. This category will go off AFDC and the merry-go-round will begin again. And the state will take pride in how statistics prove what a "great job" Texas is doing. Would it not interest Congress to take a closer look at why some cases continue to be transferred from N-AFDC to AFDC and back to N-AFDC?

JIM MATTOX
ATTORNEY GENERAL

REPLY TO
Attorney General of Texas
Child Support Enforcement
P.O. Box 5067
800 Scott Street
Wichita Falls, TX 76307
(817) 322-2557
IV-D Agency, TX 485 FIPS

This agency cannot give time frames or guarantee timely action on child support cases involving children NOT RECEIVING AFDC.

Budget allocations, staff ceilings and mandated AFDC actions by the Legislature plus the one million dollar cut to the child support budget require focus on AFDC children as first priority. NON-WELFARE CASES WILL BE WORKED WHEN AND IF TIME ALLOWS.

We suggest a private attorney or county resources (such as Family Court Services in Wichita county) if time is a factor in any way for you.

Realistically, it could be well over 1 year before your application is worked, and longer if AFDC caseload increases.

-We are sorry but the delay is required and will not be avoided by your inquiry. Thank you for your patience.

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PAUL B. EBERT
COMMONWEALTH'S ATTORNEY

COUNTY OF PRINCE WILLIAM
OFFICE OF THE COMMONWEALTH'S ATTORNEY

Michael C. Dixon
[redacted]
Assistants

9211 Lee Avenue

December 10, 1987

Linda R. Keith
Child Support Investigator
Office of the Attorney General
Child Support Enforcement
321 N. Center
San Antonio, TX 78202

Re:
Reciprocal Support Petition

Dear Miss Keith:

We have your postcard of December 1987 (a copy of which is attached) and cannot believe that you are advising us that it will be twelve to eighteen months before you take action.

There is nothing unusual about this petition. It is a simple support request by a parent in necessitous circumstances and I believe a forty-five to sixty day time frame would be more that adequate for processing.

Please let me hear from you as to when we can expect action in this matter.

Very truly yours,

John V. Notarianni, Assistant
Commonwealth's Attorney

JVN/do

1-28-88 Because of the size of our caseload & lack of personnel in our Uresa unit, we are not able to get docket space nor able to work this many cases in less than 12-18 months.

AUDIT CHANGES:

Recent OCSE Audit Changes(effective 10/1/87) are expected to directly impact all child support cases, especially URESA cases. Typically URESA cases are assigned to the bottom of the priority list. At the onset of these audit changes, several State IV-D Directors communicated their concerns to OCSE Director Wayne S. Stanton, but to no avail. These changes were not advertised for public and state agency comments before taking effect, which is the normal procedure for an action of this magnitude.

Several infractions of GAO Governmental Auditing Standards were breached. The independence and intergrity of the audit process is threatened by assigning responsibilities to OCSE Regional Administrators who are not singularly committed to the Child Support Program, but wear "two hats". Because they do not possess expertise in auditing and oversee many programs, it is unlikely they will be able to render impartial and objective audit decisions. It is not unlike "putting the fox in charge of the henhouse". Given their independent natures, audits will not be run in a manner consistant with existing GAO audit standards.

Inspector General Richard P.Kusserrow, DHHS, found the audit changes to be "so egregious" that he felt compelled to advise the Secretary, and report the violations to the Comptroller, the President and to the Congress.

A majority of State IV-D Directors communicated their concerns to Mr. Stanton in a letter from the National Council of State Child Support Enforcement Administrators dated 12/18/87. "Basically, the concerns expressed are twofold:

1. The requirements that complete and accurate statistical data be provided in a manner that can only be accomplished through automation where automation, although under development, does not exist at present, and
2. the requirements that all cases to be audited be duplicated and sent to a central location for review can only be accomplished through manual means and a diversion of people resources from establishment and enforcement to accomplish this very time consuming process."

NCSAC is troubled about the violation of confidentiality that this action creates. Another concern is,if the States have the freedom to "select" cases for the audit process, the audit will not reflect true case activity. Lack of manpower to enforce cases will cause an unnecessary and unwarranted financial crisis for millions of families, which could have been avoided. One cannot help but question the quality of leadership, when such blatant disregard is shown for advice and involvement from the affected parties.

## REORGANIZATION OF OCSE:

A letter from Robert Keith, Office of General Counsel, DHHS, states "OCSE was intended to have a certain autonomy and not to be subsumed within any other governmental entity." Sec. 454(3) of the Act. NCSAC believes there has been a definite change in direction since this subsumation into FSA. On paper the Reorganization appears to reflect sound reasoning, but the reality is that the child support program is being eroded ever so carefully and quietly as not to alarm Congress. Child Support personnel, from the Director of Auditing, Regional Representatives, Director of Programming, Deputy Director, programmers, etc., have been replaced with OFA personnel in most instances. Some have left of their own volition. Others have been "detailed to unclassified duties for 120 days" and then assigned to other agencies within FSA. OCSE personnel feel very demoralized.

NCSAC feels strongly that FSA/OCSE, as it is now called, is regressing to it's pre-1984 focus -- AFDC. NCSAC does not believe that the Child Support Program is being managed to reflect the intent of Congress. The 84 Amendments gave rise to hope for equal services for N-AFDC clients. This direction has definitely been thrown a curve in the past 2 years.

## IRS INTERCEPT PROGRAM:

The success of any program depends upon the guidance and support from the operating agencies. When the program is not favored from the beginning, it is doomed. Expanding the IRS Intercept Project to N-AFDC clients was the topic of the Sept. 16, 1983 hearing before the Senate Finance Subcommittee on the Oversight of the IRS. IRS Comm. Roscoe Egger, Secretary Margaret Heckler, and OCSE Director Fred Schutzman spoke unfavorably about the expansion of IRS Intercept services to the N-AFDC client citing operational problems. These operational problems were destined to be encountered with or without the IRS expansion.

Due process, lack of good accounting information on arrearages, compliance and implementation of new laws continue to plague the overrated wage withholding panacea. Operational problems are just a fact of life that we must endure.

Instructions developed by OCSE for"Submitting Requests for Collection of Child Support Debts by the IRS Through the Tax Refund Offset Process" (OCSE-AT-86-15 dated 7/31/86) clearly states that "OCSE has developed a Custodial Parent Information form. Whether or not this form is used, the IV-D agency should ensure.....". There is no Federal requirement for this form. On the other hand OCSE has not discouraged use of this form. As a result many States have used this loophole to restrict their workload and limit their intercept submittals to primarily AFDC clients.

Other factors that have contributed to the underutilization are: annual fees; reluctance to publicize, inability to prorate or adjust arrearages which include both child and spousal support; State developed extensions to the Federally mandated criteria; etc.

To further the detriment of the IRS Intercept Program, Congress will toll the death knell of this program on Jan. 1, 1991, unless Congress can be convinced that this program has been undermined from the very first day and should be granted a new lease on life.

LOW PRIORITY:

Aside from the usual prioritization criteria suggested by OCSE, URESA cases suffer discrimination at the State and local county levels. Little interest is afforded to undesirable "foreign" cases. If failure to locate the absent parent does not do you in, inadequate legal representation and enforcement will. Once you understand the politics and mechanics that face you in another state, you realize the necessity to not only closely monitor your case, but also personally appearing at the URESA hearing may be your only salvation.

As a URESA client you have the political disadvantage of not being a resident voter of the responding state. There is no sense of loyalty on the part of those assigned to represent or enforce. The responding state does not suffer, if your family ends up on Welfare.

Legal representation varies from State to State and County to County. One could compare it to a game of Russian Roulette. Several 1985 State Child Support Commission Reports confirm that Prosecuting Attorneys place child support matters at the bottom of their list of concerns. As an elected official, PA's do not stand to receive any "political benefits" or front page publicity from child support cases. They often distance their offices from the URESA parent, barely complying with minimum State legal requirements. Child support cases, especially URESA cases, are viewed as an albatross around their necks.

Even with Federal reimbursement available through cooperative agreements(45 CFR §302.34) Prosecuting Attorneys are reluctant to participate in legal representation for IV-D clients. Fairfax County, VA. Commonwealth Attorney Robert Horan, for example, doesn't want his office "to be bothered with those $25.00 cases". He further limits his office's involvement in URESA cases by affording an Assistant Prosecuting Attorney to appear in Court only one day a month.

Unfortunately if your URESA case is scheduled on that day and it happens to be a holiday, your case would be postponed for another month. This "etched in stone" attitude causes lengthy, unnecessary delays and it is the children who ultimately suffer.

The gravity of non-support completely alludes most of our legal and judicial society, who view it strictly as a domestic problem. In most states the worst offender owing hundreds of thousands of dollars faces a misdemeanor. Yet committing a burglary netting only $10.00 constitutes a felony. Is society being told that stealing from one's own children is far less serious than stealing from a stranger? And what is the message our children are receiving when their parents break a law and receive less punishment than they would if they stole something of less value?

## FEES:

The Federal regulations allow states to recover costs and fees, if they so choose. Those states that have chosen to do so, usually assess the costs against the child support that is collected. The states are then reimbursed at a rate of 66% by the Federal government for their administrative expenses. This appears to be "double-dipping". Florida assesses at a rate of $.67-.75 per minute for services and deducts at a rate of 10% from the support collected. New York charges $50-80 per hour for legal representation in URESA cases. Arkansas deducts 14% of the total child support collected. These are but a few of the States, which have chosen to further penalize the children. Realistically, the entire amount of child support will never be collected in the majority of cases. Then why should we continue to penalize the one responsible parent?

## BRADLEY BILL:

The "Bradley Bill," as it is commonly called, prevents modification of arrears, except from the date of petition. Reports are that, although arrears are not being dismissed, they are being "suspended". Another method of handling this situation is to reduce the current support and apply the difference to the arrears. Of course, this is a legal way of, in actuality, reducing arrears and still comply with the law. This form of legal manipulation is not new to child support recipients.

## REORGANIZATION OF STATE PROGRAMS:

With the passage of the 84 Amendments several states reacted in a panic mode in their attempts to meet with mandated deadlines. What resulted was total confusion and chaos for some states. It has been almost four years and state programs are still groping with their new image and responsibilities. Although States have passed compliant legislation, this does not mean the system is working. The transitional period and its inherent problems continue.

A compatible computer system that would meet all the demands and differences of the various State programs has not been developed. N-AFDC clients still face rejection when attempting to apply for services. And those who are successful cannot be assured that they will receive equal services. The State child support program still revolves around the AFDC client. Yet, it is the N-AFDC client whose case represents the greatest collection potential. There are still N-AFDC clients, (Who were automatically transferred to state systems from the courts) that have never been notified that they have to apply to the State for enforcement services. The result is, if only monitoring services are being performed and payments are not received, their cases are not being enforced or worked. Their cases may be disadvantaged by a computer system that is not designed to alert caseworkers when payments are not made. Therefore, their cases just sit there.

INADEQUATE STAFFING AND TRAINING:

Virtually every state suffers from inadequate staffing. Some staff are responsible for 1,000-1,500 cases. This number of cases is totally unmanageable and as a result there is a large turnover of staff. Add to this the need for special training to meet the needs of two different types of clientele and you end up with an ineffective program.

The answer to the staffing problem lies in the hands of the Secretary of DHHS. Under Sec.452(a)(2) the Secretary shall establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part. These staffing requirements have never been established.

Only a very few states were totally prepared to handle the acquisition of hundreds of thousands of N-AFDC clients. Pleas to State legislators for additional funding to hire more staff went unanswered. Many states continue to focus on the AFDC client as they did in the past, thinking the N-AFDC client will manage somehow. More and more N-AFDC clients are being forced to turn to their parents and families for help and assistance. Others continue to face eviction, utilities cut-off, etc.

Only recently have States realized the need for specialized training skills. Virginia has responded by entering into a training contract with a state university to enhance the efficiency and effectiveness through improvement of staff performance. Given the variety of issues a caseworker faces when working with AFDC and N-AFDC clients, training courses will ease their burden by providing them with more effective tools.

INTERSTATE PROJECTS:

The 84 Amendments authorized up to $15 million each year to fund special interstate demonstration projects. The results of these projects would help states to keep pace with an ever increasing mobile society. A number of these projects were cutoff in midstream by Mr. Stanton, Dir. of OCSE this year. Testifying before the Subcommittee on Labor, HHS, Education and Related Agencies Appropriation, U.S. House of Representatives on March 19, 1987 Mr. Stanton stated,"It is expected that the projects funded to date should provide sufficient data and experiences on innovative and most rewarding approaches to pursuing child support collections across State lines."

It is interesting to note that a deciding factor in the termination of interstate projects was whether the project would produce immediate results. This form of short-sightedness just happens to align with the fact that Mr. Stanton is expected to bow out or retire at the end of this year.

In an effort to develop comprehensive testimony, I requested information through a Freedom of Information Act Request to DHHS. In a letter dated 2/9/88 Russell M. Roberts, Director, FOIA/Privacy Act Division, DHHS "determined that a waiver of fees for FOIA processing services of your request for information and for records is not in the public interest ...". Therefore, I have to apologize for the limited discussion of some topics.

To give Congress and the general public an opportunity to make their own determination as to whether the waiver of fees was, in fact, not in the public interest, I offer a sample of the questions:

1. Letters from heads of State IV-D Agencies and responses from OCSE Dir. Wayne Stanton regarding new OCSE Audit Changes.
2. Letters, memos and/or personnel forms dictating changes and transfer of audit functions and responsibilities from Auditing Director to Regional Administrators.
3. 1987 Child Support Collection Totals and Caseload Totals State by State, AFDC and N-AFDC.
4. Number of IRS Full Collection Submittals.
5. Total of AFDC and N-AFDC submittals to OCSE for 1988 IRS Intercept Program
6. Total of AFDC and N-AFDC cases certified to IRS for 1988 IRS Intercept Program.
7. Total OCSE personnel reassigned to other programs and agencies.
8. Number of OFA transfers to OCSE positions.
9. FSA/OCSE Regional Administrators wear "two hats", are their salaries prorated?
10. The FSA Associate Administrator/OCSE Associate Deputy Director for Information Systems Management also wears "two hats", is her salary prorated?
11. Copy of policy and/or regulation requiring IV-D clients to file an annual application and/or sign a yearly affidavit of arrears to be eligle for IRS Intercept Program.
12. Copy of OCSE 1988 Printing Budget.

NCSAC makes every effort to present all the facts and takes great pains to verify information in order to present a balanced picture. NCSAC strives to create an awareness of the changes initiated at the Federal level, so that the child support advocate and Congress might better understand the consequences of these actions. NCSAC is concerned about the change in attitude of DHHS and their unwillingness to allow NCSAC free access to information, some of which will be published in OCSE Annual Report to Congress. This refusal is certainly inconsistent with past NCSAC requests and will only result in calling attention to their uncooperativeness, and further create an aire of suspicion.

§5.45 WAIVER or reduction of fees.
(a) STANDARD. We will waive or reduce the fees we would otherwise charge if disclosure of the information meets both of the following tests:
(1) It is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and
(2) It is not primarily in the commericial interest of the requester.

## RECOMMENDATIONS:

1. Non-support should be classified as a FELONY.
2. Secretary of HHS comply with regulation to establish minimum organizational and staffing requirement as mandated in Sec.452(a)(2)
3. Request the National Conference of Commissioners on Uniform State Laws (Originator of URESA) to perform a study and evaluation on ramifications of new State laws with to URESA.
4. Eliminate fees and costs to the responsible N-AFDC parent or collect them from the absent parent.
5. Increase or remove incentive cap on collections to ensure a balanced effort in working cases.
6. Extend Fed. IRS Intercept for N-AFDC beyond 1990 and beyond age 18.
7. Increase publicity of all child support services.
8. Discontinue State Application forms for IRS Intercept Program
9. Request intervention of Inspection General and General Accounting Office regarding Audit Changes and the ramifications on the child support program.
10. Require and encourage specialized training for all State personnel
11. Reinvest State profits back into Child Support Budget -- not General Funds
12. Appoint an Ombudsman to make determination on cases to be submitted to Federal Court.
13. Secretary of HHS comply with regulation to establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support,... as mandated in Sec. 452 (a)(1).
14. Run Soc.Sec.No. Match against Federal employees using IRS Intercept Tape to demonstrate additional ways to identify child support evaders.

## CONCLUSION:

We are living in an era of disposable children. Parental responsibility is tossed aside as carelessly as a paper plate. If we don't want something, we throw it away. Items which were once treasured and treated with care to be handed down from generation to generation, now have a brief life expectancy. Too often, this same attitude prevails in parenting. The life expectancy of an involved parent is sometimes less than a year or two. Only to be resurrected once the child becomes emanicipated and parental financial responsibility erased by statute of limitations. But years of poverty are not erased in the children's minds.

"When you realize the future's behind you, you don't take your steps lightly." Our future is our children and their future is being shaped by irresponsible parents. The choice and decisions made by all parents yesterday and the ones we make today help determine their future.

Parents who renounce the existance of their children are molding the character of our future society. These children will carry emotional scars for the rest of their lives, not unlike the scars of physical abuse. For non-support is a form of child abuse, and it can no longer be ignored.

Albert Einstein said, "Nothing is more destructive of respect for the government and the law of the land than passing laws which cannot be enforced."

Thank you,
Ruth E.(Betty) Murphy
President of NCSAC

NCSAC

National Child Support Advocacy Coalition • 6816 Rock Creek Court, Alexandria, VA 22306 • (703) 765-7956

TABLE 1 TOTAL STATE-REPORTED IV-D COLLECTIONS (IN THOUSANDS) 1986-1987

| | 1986 | 1987 | Change | $ Change |
|---|---:|---:|---:|---:|
| Virginia | $24,610 | $58,859 | 139.2% | $34,249 |
| West Virginia | $5,701 | $9,724 | 70.6% | $4,022 |
| South Carolina | $21,756 | $33,581 | 54.3% | $11,824 |
| Virgin Islands | $2,038 | $3,020 | 48.2% | $982 |
| Arizona | $13,730 | $20,114 | 46.5% | $6,384 |
| Ohio | $124,745 | $180,696 | 44.9% | $55,951 |
| Texas | $43,209 | $61,184 | 41.6% | $17,976 |
| South Dakota | $4,473 | $6,184 | 38.2% | $1,710 |
| Georgia | $35,276 | $48,082 | 36.3% | $12,806 |
| Hawaii | $11,791 | $15,985 | 35.6% | $4,194 |
| Kansas | $16,416 | $22,199 | 35.2% | $5,783 |
| Alaska | $12,832 | $17,139 | 33.6% | $4,307 |
| Mississippi | $11,798 | $15,431 | 30.8% | $3,633 |
| Missouri | $54,998 | $71,905 | 30.7% | $16,908 |
| Florida | $63,136 | $81,759 | 29.5% | $18,623 |
| Indiana | $47,012 | $60,613 | 28.9% | $13,601 |
| Guam | $487 | $627 | 28.8% | $140 |
| Wyoming | $2,511 | $3,229 | 28.6% | $718 |
| Wisconsin | $121,260 | $154,701 | 27.6% | $33,440 |
| Maine | $17,731 | $22,421 | 26.5% | $4,690 |
| North Carolina | $55,381 | $69,895 | 26.2% | $14,514 |
| Oklahoma | $12,977 | $16,365 | 26.1% | $3,389 |
| Vermont | $4,636 | $5,781 | 24.7% | $1,145 |
| New Hampshire | $14,203 | $17,542 | 23.5% | $3,339 |
| Illinois | $72,647 | $89,622 | 23.4% | $16,975 |
| Idaho | $10,954 | $13,490 | 23.2% | $2,536 |
| Alabama | $32,499 | $39,976 | 23.0% | $7,477 |
| Tennessee | $31,390 | $38,406 | 22.4% | $7,016 |
| Iowa | $40,558 | $49,325 | 21.6% | $8,766 |
| New York | $221,953 | $269,218 | 21.3% | $47,265 |
| Washington | $61,151 | $72,320 | 18.3% | $11,169 |
| Massachusetts | $109,312 | $128,809 | 17.8% | $19,497 |
| North Dakota | $4,665 | $5,483 | 17.5% | $818 |
| Colorado | $19,055 | $22,376 | 17.4% | $3,320 |
| California | $336,569 | $394,882 | 17.3% | $58,314 |
| Kentucky | $27,957 | $32,456 | 16.1% | $4,499 |
| Montana | $4,631 | $5,362 | 15.8% | $731 |
| Minnesota | $68,889 | $79,467 | 15.4% | $10,579 |
| Rhode Island | $10,466 | $11,915 | 13.9% | $1,450 |
| Delaware | $12,232 | $13,871 | 13.4% | $1,639 |
| Puerto Rico | [illegible] | [illegible] | 11.7% | $6,952 |
| Utah | $22,316 | $24,766 | 11.0% | $2,449 |
| Nebraska | $34,206 | $37,667 | 10.1% | $3,461 |
| Dist. of Col. | $5,185 | $5,690 | 9.7% | $505 |
| Pennsylvania | $414,802 | $455,184 | 9.7% | $40,382 |
| Nevada | $8,977 | $9,844 | 9.7% | $867 |
| Arkansas | $14,865 | $16,267 | 9.4% | $1,402 |
| Oregon | $49,150 | $53,470 | 8.8% | $4,320 |
| New Mexico | $7,978 | $8,672 | 8.7% | $694 |
| New Jersey | $229,570 | $245,697 | 7.0% | $16,128 |
| Connecticut | $54,478 | $57,182 | 5.0% | $2,704 |
| Louisiana | $39,932 | $40,047 | .3% | $115 |
| Maryland | $95,737 | $92,706 | -3.2% | $-3,031 |
| Michigan | $424,647 | $409,350 | -3.6% | $-15,297 |
| U. S. TOTAL | $3,248,690 | $3,786,721 | 16.6% | $538,031 |

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## TABLE 2 AFDC-RELATED IV-D COLLECTIONS (IN THOUSANDS) 1986-1987

| | 1986 | 1987 | Change | $ Change |
|---|---|---|---|---|
| Arizona | $2,725 | $4,805 | 76.3% | $2,080 |
| Alaska | $2,797 | $4,242 | 51.7% | $1,445 |
| Mississippi | $5,928 | $7,599 | 28.2% | $1,671 |
| Indiana | $29,703 | $37,775 | 27.2% | $8,073 |
| Missouri | $18,728 | $23,525 | 25.6% | $4,797 |
| South Carolina | $10,544 | $13,218 | 25.4% | $2,674 |
| Tennessee | $9,757 | $12,086 | 23.9% | $2,329 |
| New York | $82,512 | $102,115 | 23.8% | $19,603 |
| Maine | $12,796 | $15,557 | 21.6% | $2,761 |
| North Carolina | $27,803 | $33,249 | 19.6% | $5,445 |
| Illinois | $32,392 | $38,705 | 19.5% | $6,314 |
| Florida | $28,202 | $33,511 | 18.8% | $5,309 |
| Kansas | $10,298 | $12,155 | 18.0% | $1,857 |
| Georgia | $21,456 | $25,244 | 17.7% | $3,788 |
| New Hampshire | $2,336 | $2,744 | 17.5% | $408 |
| Wyoming | $1,280 | $1,489 | 16.4% | $210 |
| California | $172,414 | $198,152 | 14.9% | $25,738 |
| Vermont | $3,641 | $4,183 | 14.9% | $543 |
| Washington | $33,483 | $38,429 | 14.8% | $4,946 |
| Virgin Islands | $212 | $243 | 14.3% | $30 |
| Virginia | $13,687 | $15,536 | 13.5% | $1,850 |
| Ohio | $59,246 | $66,866 | 12.9% | $7,620 |
| North Dakota | $3,118 | $3,517 | 12.8% | $399 |
| Texas | $17,619 | $19,703 | 11.8% | $2,084 |
| Hawaii | $5,138 | $5,698 | 10.9% | $560 |
| South Dakota | $2,678 | $2,966 | 10.8% | $289 |
| Guam | $273 | $299 | 9.8% | $27 |
| Louisiana | $14,456 | $15,798 | 9.3% | $1,342 |
| Arkansas | $8,083 | $8,771 | 8.5% | $687 |
| Iowa | $26,016 | $28,184 | 8.3% | $2,168 |
| Wisconsin | $53,634 | $57,468 | 7.1% | $3,834 |
| Massachusetts | $50,398 | $53,962 | 7.1% | $3,564 |
| Nebraska | $5,816 | $6,160 | 5.9% | $344 |
| West Virginia | $5,344 | $5,647 | 5.7% | $303 |
| Minnesota | $33,921 | $35,822 | 5.6% | $1,901 |
| Dist. of Col. | $2,769 | $2,912 | 5.2% | $143 |
| Idaho | $4,804 | $5,034 | 4.8% | $230 |
| Pennsylvania | $74,460 | $77,883 | 4.6% | $3,423 |
| Rhode Island | $5,900 | $6,157 | 4.3% | $256 |
| Puerto Rico | $1,730 | $1,803 | 4.3% | $74 |
| Kentucky | $11,200 | $11,676 | 4.2% | $476 |
| Alabama | $14,454 | $15,050 | 4.1% | $596 |
| Delaware | $3,987 | $4,150 | 4.1% | $163 |
| New Jersey | $57,785 | $58,890 | 1.9% | $1,104 |
| Michigan | $125,426 | $127,508 | 1.7% | $2,082 |
| Connecticut | $26,081 | $26,403 | 1.2% | $322 |
| Colorado | $11,135 | $11,155 | .2% | $19 |
| Oklahoma | $7,219 | $7,143 | -1.0% | $-76 |
| Maryland | $31,529 | $31,083 | -1.4% | $-447 |
| Montana | $3,438 | $3,365 | -2.1% | $-74 |
| Utah | $12,140 | $11,733 | -3.3% | $-407 |
| Oregon | $15,297 | $14,744 | -3.6% | $-553 |
| Nevada | $2,860 | $2,673 | -6.5% | $-187 |
| New Mexico | $4,837 | $4,120 | -14.8% | $-717 |
| U. S. TOTAL | $1,225,485 | $1,358,906 | 10.9% | $133,421 |

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TABLE 3 NON-AFDC IV-D COLLECTIONS (IN THOUSANDS) 1986-1987

| | 1986 | 1987 | Change | $ Change |
|---|---|---|---|---|
| West Virginia | $357 | $4,076 | 1,042% | $3,719 |
| Virginia | $10,924 | $43,323 | 296.6% | $32,399 |
| South Carolina | $11,213 | $20,363 | 81.6% | $9,150 |
| South Dakota | $1,796 | $3,217 | 79.2% | $1,422 |
| Ohio | $65,499 | $113,830 | 73.8% | $48,330 |
| Montana | $1,193 | $1,997 | 67.4% | $804 |
| Georgia | $13,820 | $22,838 | 65.3% | $9,018 |
| Kansas | $6,118 | $10,044 | 64.2% | $3,926 |
| Texas | $25,589 | $41,481 | 62.1% | $15,892 |
| Vermont | $996 | $1,598 | 60.5% | $602 |
| Oklahoma | $5,758 | $9,222 | 60.2% | $3,464 |
| Hawaii | $6,653 | $10,287 | 54.6% | $3,633 |
| Guam | $214 | $327 | 53.0% | $113 |
| Virgin Islands | $1,825 | $2,777 | 52.2% | $952 |
| Iowa | $14,542 | $21,140 | 45.4% | $6,598 |
| New Mexico | $3,141 | $4,552 | 44.9% | $1,411 |
| Wisconsin | $67,627 | $97,233 | 43.8% | $29,606 |
| Colorado | $7,920 | $11,221 | 41.7% | $3,301 |
| Wyoming | $1,231 | $1,739 | 41.3% | $508 |
| Arizona | $11,005 | $15,309 | 39.1% | $4,304 |
| Maine | $4,935 | $6,864 | 39.1% | $1,929 |
| Alabama | $18,045 | $24,926 | 38.1% | $6,881 |
| Florida | $34,934 | $48,248 | 38.1% | $13,314 |
| Idaho | $6,151 | $8,457 | 37.5% | $2,306 |
| Mississippi | $5,870 | $7,832 | 33.4% | $1,962 |
| Missouri | $36,269 | $48,380 | 33.4% | $12,111 |
| North Carolina | $27,578 | $36,646 | 32.9% | $9,069 |
| Indiana | $17,309 | $22,837 | 31.9% | $5,528 |
| Alaska | $10,035 | $12,897 | 28.5% | $2,862 |
| Utah | $10,176 | $13,032 | 28.1% | $2,856 |
| Massachusetts | $58,914 | $74,846 | 27.0% | $15,933 |
| North Dakota | $1,548 | $1,966 | 27.0% | $419 |
| Illinois | $40,255 | $50,917 | 26.5% | $10,662 |
| Rhode Island | $4,565 | $5,759 | 26.1% | $1,194 |
| Minnesota | $34,968 | $43,645 | 24.8% | $8,677 |
| New Hampshire | $11,867 | $14,798 | 24.7% | $2,931 |
| Kentucky | $16,756 | $20,780 | 24.0% | $4,024 |
| Washington | $27,668 | $33,891 | 22.5% | $6,223 |
| Tennessee | $21,633 | $26,321 | 21.7% | $4,688 |
| California | $164,155 | $196,730 | 19.8% | $32,575 |
| New York | $139,441 | $167,103 | 19.8% | $27,662 |
| Delaware | $8,245 | $9,721 | 17.9% | $1,476 |
| Nevada | $6,117 | $7,172 | 17.2% | $1,054 |
| Dist. of Col. | $2,416 | $2,778 | 15.0% | $362 |
| Oregon | $33,853 | $38,726 | 14.4% | $4,872 |
| Puerto Rico | $57,482 | $64,360 | 12.0% | $6,879 |
| Nebraska | $28,390 | $31,507 | 11.0% | $3,117 |
| Pennsylvania | $340,342 | $377,301 | 10.9% | $36,959 |
| Arkansas | $6,782 | $7,496 | 10.5% | $715 |
| New Jersey | $171,785 | $186,808 | 8.7% | $15,023 |
| Connecticut | $28,397 | $30,779 | 8.4% | $2,382 |
| Maryland | $64,208 | $61,623 | -4.0% | $-2,585 |
| Louisiana | $25,476 | $24,250 | -4.8% | $-1,226 |
| Michigan | $299,221 | $281,842 | -5.8% | $-17,379 |
| U. S. TOTAL | $2,023,205 | $2,427,815 | 20.0% | $404,610 |

National Council of State Child
Support Enforcement Administrators

December 18, 1987

DEC 1987
RECEIVED

Wayne A. Stanton, Administrator
Family Support Administration
Room 5600 N
330 Independence Avenue S.W.
Washington, D.C. 20201

Re: Procedural Changes to Program Results Audits

Dear Mr. Stanton:

As individual states and as an organization we are firmly committed to the goal of improving the delivery of child support enforcement services and fully recognize that program audits play a role in that effort to improve our program.

However, we are concerned that the audit procedures delineated in Action Transmittal OCSE-AT-87-7 "Procedural Changes to Program Results Audits and Follow-up Reviews" will have the direct impact of diverting resources from the accomplishment of our common goals.

Because of the extent of concern expressed by State IV-D Administrators, our organization surveyed all of the states and territories to determine the crux of the issues being raised and what recommendations that we could make for improvement. As of the date of this letter, thrity-seven (37) states have responded, many with very documented expression of concern.

Basically, the concerns expressed are twofold:

1. The requirements that complete and accurate statistical data be provided in a manner that can only be accomplished through automation where automation, although under development, does not exist at present, and

2. the requirements that all cases to be audited be duplicated and sent to a central location for review can only be accomplished through manual means and a diversion of people resources from establishment and enforcement to accomplish this very time consuming process.

These two principle areas garnered the greatest amount of concern from the majority of states who responded. With respect to the first area, the vast majority of states responding indicated that upon completion of their automated computer systems, they would be able to provide the complete and accurate data required. We recommend, therefore, that this requirement be deferred for states that have not completed their systems development efforts. We firmly believe that once a system is in place in a state, this requirement is justified and can be met with far less expenditure of resources to achieve greater accuracy.

Recommending an acceptable resolution to the second area becomes more difficult. In a large number of states, this requirement was troublesome because the IV-D agency does not have the control over the case record managing local agency to be able to force compliance. Many respondents indicated that they would have extreme difficulty achieving cooperation.

The foremost concern expressed about this requirement was that it is a time consuming and expensive process that has the additional disadvantage to the audit agency of minimizing their interaction with the staff who perform the work. We submit that the costs in terms of staff time and copying records would far outweigh the costs of the auditors to travel to the selected sites.

We strongly urge you to reconsider implementation of the requirement that selected case files be duplicated and sent to a central site for audit. We maintain that these resources are sorely needed to improve our performance record, as it relates to enforcement mandates, that have a direct bearing on services to program clients and the enhancement of collections.

Thank you for consideration given to our position on this issue.

Sincerely,

Bonnie L. Becker

Bonnie L. Becker, President
National Council of State Child
Support Enforcement Administrators

Bob Harris.
[illegible]

JULE M. SUGARMAN
Secretary

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

July 2, 1987

Mr. Wayne A. Stanton
Administrator, Family Support Administration
Department of Health and Human Services
330 Independence Avenue
Room 5600 North
Washington D. C. 20201

Dear Mr. Stanton:

The state of Washington is in agreement with your efforts to conduct audits in a more timely manner. I also see audits as an important management tool for you and the states involved. However, the procedural requirements, as outlined in your letter of May 29, 1987, would place an unmanageable burden on this state.

For example, the new procedures require the states to produce a listing each year of the entire IV-D caseload by function, i.e., locate, enforcement, etc. Washington has the most highly automated child support program in the nation. However, cases are not classified by function. There is no federal regulation requiring states to do so, and there is no benefit of such classifications to the state child support program.

Producing such a listing would require a manual search and classification of some 300,000 cases currently on our computer system. This alone would take over 25,000 staff hours. Once cases were classified by function, the data would have to be maintained and updated on each case.

The requirement that states copy and send records to one central location is of equal concern. It would consume a great deal of staff time to copy the case records. More important, however, is the issue regarding the confidentiality of the case records; especially as it relates to paternity cases. Once records are copied and allowed to leave an office, it becomes very difficult to ensure compliance with the confidentiality requirements of state and federal law.

Additionally, it is not correct to assume that an auditor can come to the proper conclusion based solely upon a copy of the case file. Auditors are not experts in the mechanics of each state's child support program. Even individuals who are experts, must often consult with the caseworker to fully understand what has transpired.

Rec'd
AUG 17 19

The need for auditors to consult with caseworkers was recognized when the audit regulations were written. Title 45 CFR 302.13 states, in part, that "The state shall also make available personnel associated with the State's IV-D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit."

New and more efficient ways to conduct audits must be developed, and the state of Washington would be happy to assist in any way possible. Procedural changes, however, must not inhibit a state from performing its primary responsibility which is to collect child support.

BEST AVAILABLE COPY

NCSAC

National Child Support Advocacy Coalition • 6816 Rock Creek Court, Alexandria, VA 22306 • (703) 765-7956

Court of Common Pleas
Judicial Chambers

Nicholas A. Cipriani
Judge

517 City Hall
Philadelphia Pa 19107
(215) 686-2600

July 30, 1987

Wayne A. Stanton, Director
Office of Child Support and
Family Support Administration
Department of Health and Human Services
Washington, D.C. 20201

Dear Mr. Stanton:

We have been provided with a copy of your letter dated May 29, 1987, to John F. White, Jr., Secretary of the Pennsylvania Department of Public Welfare.

It is critical that we respond from our perspective as the largest jurisdiction in Pennsylvania because of the impact of every federal audit on Philadelphia.

It is not possible or practical for the Philadelphia Family Court to forward a complete list of our entire IV-D caseload including closed and inactive cases. All cases in Philadelphia are not being entered into our computer system. Examples are non-viable cases. Some cases referred by the Welfare Department are opened on the date of referral and closed on the same date. This is true when investigation verifies that the absent parent is deceased. This also occurs in cases such as those where the defendant is in a foreign country with whom we have no reciprocity or in cases where the applicant for welfare who is referred to us has absolutely no information on the father of the child born out of wedlock.

To attempt to refer all cases would require photocopying thousands of referral documents which have accumulated over the last few years. This represents an exercise in futility.

Statistical data in Philadelphia verifies referral of approximately 3,000 applicants for AFDC (prior to authorization of eligibility of welfare) per month. Of these, approximately 30 percent

do not qualify for welfare and many do not request IV-D services. It would be extremely expensive and reduce cost effectiveness if each of these cases were entered into any computer system. This would also result in overloading the data in a computer system and result in more costly data processing services because of the consumption of time in running any of the programs.

To include all closed cases on the list of cases submitted would represent a burden on staff time and would result in very substantial costs for photocopying referral documents. This would be counter productive to the goals of the IV-D program.

Instructions for audits for fiscal year 1988 are equally burdensome. We cannot provide this data on each case. Again all of this information is not programmed in a computer on all cases such as referred to above and would require manual documentation which could only be accomplished by countless manhours.

The procedural change of requiring that all cases selected for audit be sent to one location is again not practical and burdensome. We cannot forward our original record. Therefore, photocopying each record would be required along with multiple copies of printouts from the computer. Many records are voluminous and contain hundreds of pages which include copies of each petition, orders to appear, orders of support, bench warrants, letters, notices, chronological reporting of the events in the case, etc., etc.

However, our strongest objection is to the methodology indicated for the auditors review of the record. It is inconceivable that auditors' conclusions would be made without affording IV-D staff the right to provide explanation or additional clarification and documentation. Accepted standards for auditors would include this right.

Philadelphia has had a federal audit each time an audit has been conducted in Pennsylvania. Our experience has verified that during each audit, both the Court and the Federal Auditors have appreciated the opportunity to discuss cases which are in the audit review. This has proved beneficial, not only to the Court but to the auditors. I believe that the auditors would verify this experience.

Additionally, this Court has had audits by the State, by Philadelphia's City Controller, by an independent, professional firm auditing our data processing systems, etc. Each group of auditors have held an entrance conference with us to discuss the procedures and to explain the sampling techniques which will be applied for the review cases and further explained the methodology they would use during their audit review.

All the auditors have met with staff throughout the period of the audit on a regular basis. At the conclusion of the audit period, all of the auditors have met with staff for an informal exit conference to discuss the contents of the report.

Failure to communicate causes many problems in government and society. Inability to communicate can only reduce the effectiveness of the audit for all concerned.

Further, we believe the above problems are common to all of the counties in Pennsylvania and that all of the counties would share in these opinions.

Please be assured of our committment to child support and the goals of the IV-D program. We acknowledge more needs to be done and assure you that we are constantly striving to improve our effectiveness and efficiency.

We respectfully request your reconsideration of the procedures as outlined in your letter of May 29, 1987.

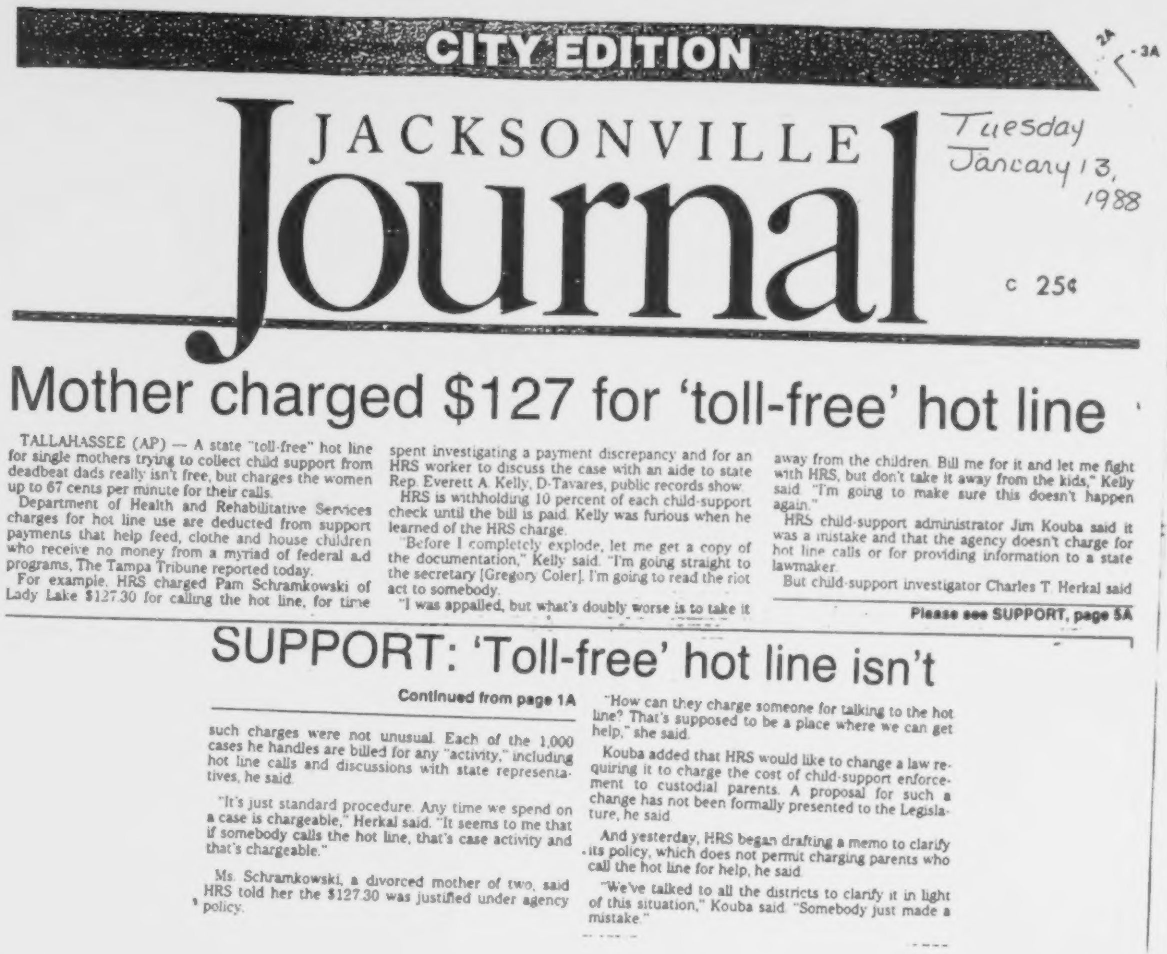
Sincerely,

Nicholas A. Cipriani
Administrative Judge

NAC/dig

cc: Honorable John F. White, Jr.,
Secretary of the Pennsylvania Department of
Public Welfare

NCSAC
National Child Support Advocacy Coalition • 6816 Rock Creek Court, Alexandria, VA 22306 • (703) 765-7956



CITY EDITION

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JACKSONVILLE Journal

Tuesday
January 13,
1988

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# Mother charged $127 for 'toll-free' hot line

TALLAHASSEE (AP) — A state "toll-free" hot line for single mothers trying to collect child support from deadbeat dads really isn't free, but charges the women up to 67 cents per minute for their calls.

Department of Health and Rehabilitative Services charges for hot line use are deducted from support payments that help feed, clothe and house children who receive no money from a myriad of federal aid programs, The Tampa Tribune reported today.

For example, HRS charged Pam Schramkowski of Lady Lake $127.30 for calling the hot line, for time spent investigating a payment discrepancy and for an HRS worker to discuss the case with an aide to state Rep. Everett A. Kelly, D-Tavares, public records show.

HRS is withholding 10 percent of each child-support check until the bill is paid. Kelly was furious when he learned of the HRS charge.

"Before I completely explode, let me get a copy of the documentation," Kelly said. "I'm going straight to the secretary [Gregory Coler]. I'm going to read the riot act to somebody.

"I was appalled, but what's doubly worse is to take it away from the children. Bill me for it and let me fight with HRS, but don't take it away from the kids," Kelly said. "I'm going to make sure this doesn't happen again."

HRS child-support administrator Jim Kouba said it was a mistake and that the agency doesn't charge for hot line calls or for providing information to a state lawmaker.

But child-support investigator Charles T. Herkal said

Please see SUPPORT, page 5A

# SUPPORT: 'Toll-free' hot line isn't

Continued from page 1A

such charges were not unusual. Each of the 1,000 cases he handles are billed for any "activity," including hot line calls and discussions with state representatives, he said.

"It's just standard procedure. Any time we spend on a case is chargeable," Herkal said. "It seems to me that if somebody calls the hot line, that's case activity and that's chargeable."

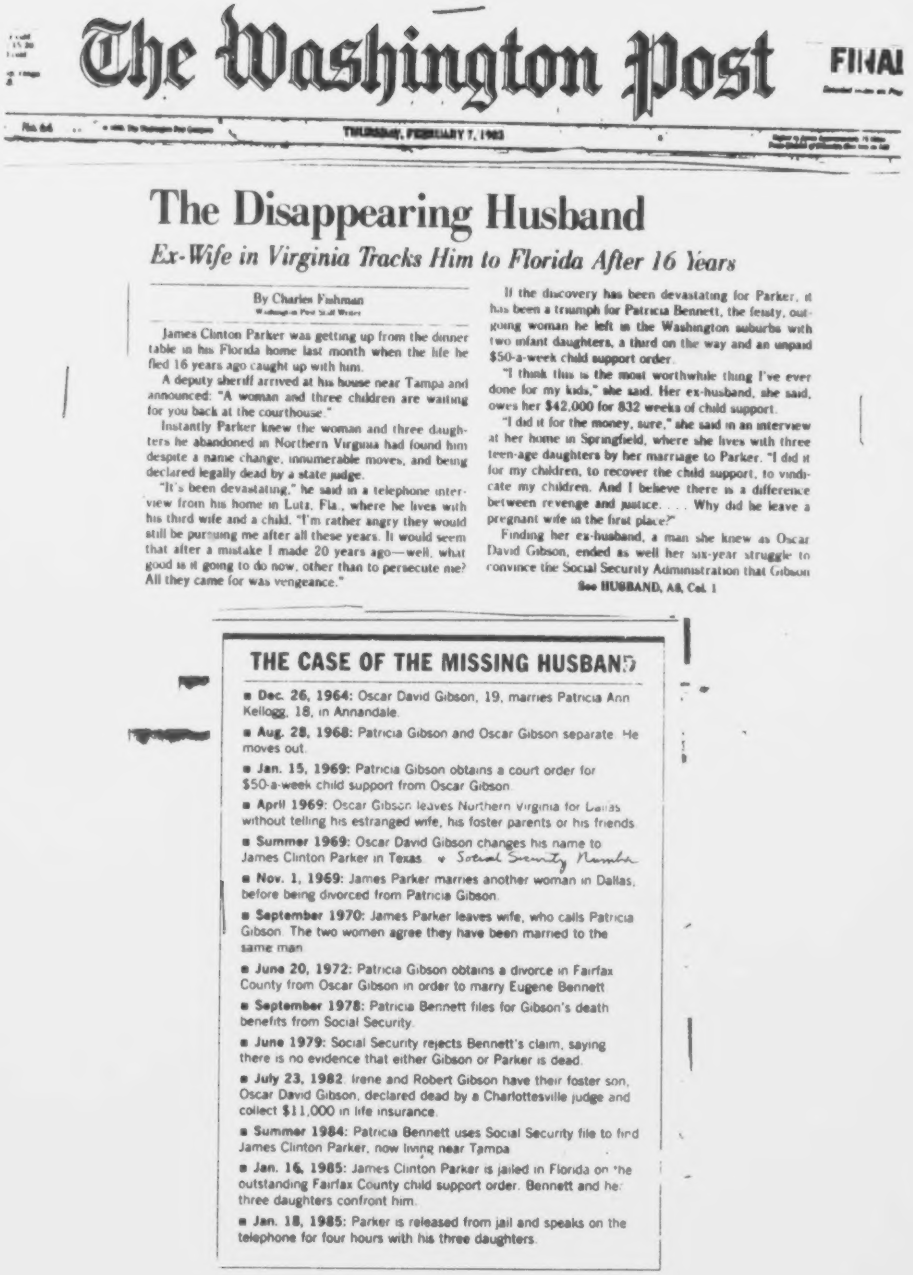
Ms. Schramkowski, a divorced mother of two, said HRS told her the $127.30 was justified under agency policy.

"How can they charge someone for talking to the hot line? That's supposed to be a place where we can get help," she said.

Kouba added that HRS would like to change a law requiring it to charge the cost of child-support enforcement to custodial parents. A proposal for such a change has not been formally presented to the Legislature, he said.

And yesterday, HRS began drafting a memo to clarify its policy, which does not permit charging parents who call the hot line for help, he said.

"We've talked to all the districts to clarify it in light of this situation," Kouba said. "Somebody just made a mistake."



The Washington Post FINAL

THURSDAY, FEBRUARY 7, 1985

# The Disappearing Husband

## *Ex-Wife in Virginia Tracks Him to Florida After 16 Years*

By Charles Fishman
Washington Post Staff Writer

James Clinton Parker was getting up from the dinner table in his Florida home last month when the life he fled 16 years ago caught up with him.

A deputy sheriff arrived at his house near Tampa and announced: "A woman and three children are waiting for you back at the courthouse."

Instantly Parker knew the woman and three daughters he abandoned in Northern Virginia had found him despite a name change, innumerable moves, and being declared legally dead by a state judge.

"It's been devastating," he said in a telephone interview from his home in Lutz, Fla., where he lives with his third wife and a child. "I'm rather angry they would still be pursuing me after all these years. It would seem that after a mistake I made 20 years ago—well, what good is it going to do now, other than to persecute me? All they came for was vengeance."

If the discovery has been devastating for Parker, it has been a triumph for Patricia Bennett, the feisty, outgoing woman he left in the Washington suburbs with two infant daughters, a third on the way and an unpaid $50-a-week child support order.

"I think this is the most worthwhile thing I've ever done for my kids," she said. Her ex-husband, she said, owes her $42,000 for 832 weeks of child support.

"I did it for the money, sure," she said in an interview at her home in Springfield, where she lives with three teen-age daughters by her marriage to Parker. "I did it for my children, to recover the child support, to vindicate my children. And I believe there is a difference between revenge and justice. . . . Why did he leave a pregnant wife in the first place?"

Finding her ex-husband, a man she knew as Oscar David Gibson, ended as well her six-year struggle to convince the Social Security Administration that Gibson

See HUSBAND, A8, Col. 1

### THE CASE OF THE MISSING HUSBAND

- **Dec. 26, 1964:** Oscar David Gibson, 19, marries Patricia Ann Kellogg, 18, in Annandale.
- **Aug. 28, 1968:** Patricia Gibson and Oscar Gibson separate. He moves out.
- **Jan. 15, 1969:** Patricia Gibson obtains a court order for $50-a-week child support from Oscar Gibson.
- **April 1969:** Oscar Gibson leaves Northern Virginia for Dallas without telling his estranged wife, his foster parents or his friends.
- **Summer 1969:** Oscar David Gibson changes his name to James Clinton Parker in Texas. + Social Security Number
- **Nov. 1, 1969:** James Parker marries another woman in Dallas, before being divorced from Patricia Gibson.
- **September 1970:** James Parker leaves wife, who calls Patricia Gibson. The two women agree they have been married to the same man.
- **June 20, 1972:** Patricia Gibson obtains a divorce in Fairfax County from Oscar Gibson in order to marry Eugene Bennett.
- **September 1978:** Patricia Bennett files for Gibson's death benefits from Social Security.
- **June 1979:** Social Security rejects Bennett's claim, saying there is no evidence that either Gibson or Parker is dead.
- **July 23, 1982:** Irene and Robert Gibson have their foster son, Oscar David Gibson, declared dead by a Charlottesville judge and collect $11,000 in life insurance.
- **Summer 1984:** Patricia Bennett uses Social Security file to find James Clinton Parker, now living near Tampa.
- **Jan. 16, 1985:** James Clinton Parker is jailed in Florida on the outstanding Fairfax County child support order. Bennett and her three daughters confront him.
- **Jan. 18, 1985:** Parker is released from jail and speaks on the telephone for four hours with his three daughters.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of
Child Support Enforceme

Refer to:

**Memorandu**

Date: NOV 10 1987

From:
James J. Delaney Jim
Deputy Director

Subject:
Application for Federal tax refund offset services

To:
Wayne A. Stanton
Director

As we discussed last week, some States require a Non-AFDC custodial parent to file a separate application to request Federal tax refund offset services. I have concerns that this policy imposes an additional administrative burden on custodial parents and may in fact restrict access to this tax refund offset process.

While there must be an application for IV-D services before any service is provided, there is no Federal requirement for a separate application requesting that a case be submitted for Federal tax refund offset. We have never issued policy suggesting States require a separate application for this service. At the same time, there is no Federal policy which precludes such an application. Federal regulations do require that States verify the accuracy of the amount submitted for offset and other case data before submitting amounts for offset. While OCSE consistently has encouraged use of the Federal tax refund offset to the maximum extent possible, we have also stressed the importance of quality submittals. That is, States should maintain accurate case data, including arrearage amounts, which facilitate submittal of Non-AFDC cases for offset without contacting the custodial parent for information that should be in the case record. However, as we know, some States have systems which contain correct case data and others do not. The absence of such data may necessitate contact with custodial parents to verify arrearages or provide other pertinent information.

Inasmuch as five of the six States in Region V require a separate application for Federal tax refund offset, I believe we should send letters to State IV-D Directors as soon as possible to remind them that separate applications are not required by Federal regulations or policy and may tend to restrict access to the Federal tax refund offset process.

______ CONCUR ______ NONCONCUR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Family Support Administration
Washington, D.C. 20201

Administrator

Nov. 25

Jim Delaney—
Re: Attached
I think we need to discuss this with others— the R.As, our Lawyers + some of our Child Support Staff. I'm concerned about the message we would be sending to the states.
Wayne

DEPARTMENT OF HEALTH & HUMAN SERVICES

Family Support Administration

**Memorandum**

Date: December 4, 1987

From: Director
Office of Child Support Enforcement

Subject: Wayne Dixon and Giving of Materials
to Regional Administrators

To: Jim Delaney
Deputy Director, OCSE

Jim,

Michigan officials contacted us today to strongly complain about Wayne Dixon's totally inappropriate and unauthorized phone call to Michigan IV-D persons. Personally, he (Dixon) advised them to file more tax offsets right away, because he had found a loophole in the law whereas Michigan had been previously denied authorization to do so by IRS and us -- for such persons in question.

Dixon's actions are not to be tolerated. He does not deal with State or county people without specific authorization. Contacts such as Dixon's are to be done only by the Regional Administrators or OCSE Representative.

Advise Dixon he must stop all unauthorized State contacts -- where I have not personally approved.

Secondly, the materials that you wished to hand out to the Regional Administrators had not been approved by me, and I directed Naomi Marr to intercept same, and to take possession, for me, of the materials. Jim, you must fully realize that I am the Director of Child Support, and that I call the final "shots" in all Child Support directives, instructions, and material release.

Wayne Dixon's materials and ideas, etc., must be approved by me personally before you or anyone else is authorized to disseminate same. I really thought you already knew this -- but now you certainly do. And, you are expected to react accordingly.

Wayne

Wayne A. Stanton

cc: Mr. Bob Harris
Ms. Naomi Marr
Mr. David Kirker

BEST AVAILABLE COPY

**DEPARTMENT OF HEALTH & HUMAN SERVICES**

Office of
Child Support Enforcement

Washington, D.C. 20201

FEB 22 1988

Ms. Ruth E. Murphy
President, NCSAC
6816 Rock Creek Court
Alexandria, Virginia 22306

Dear Ms. Murphy:

This is to respond to your February 2 letter requesting clarification of Federal income tax refund offset procedures.

Federal regulations regarding the Federal income tax refund offset program are located in the Code of Federal Regulations at Title 45, Part 303.72. In addition to the regulations, OCSE issued Action Transmittal OCSE-87-6, which provides instructions to States submitting requests for collection of child support debts through the Federal income tax refund offset program.

There is no Federal regulation which specifically addresses procedures for applying for the Federal income tax refund offset program. States should contact custodial parents in non-AFDC cases to verify their addresses and the amount of past-due support owed prior to submitting these cases for offset. The Action Transmittal includes a sample form developed by OCSE to assist IV-D agencies in collecting background information and properly informing applicants of services concerning the income tax refund offset program. OCSE encourages States to use the form or to provide custodial parents a written statement explaining tax refund offset procedures.

I hope this information is helpful in clarifying Federal income tax refund offset procedures.

Sincerely,

Robert C. Harris
Associate Deputy Director

Acting Chairman Downey. Thank you, Ms. Murphy.
Mr. Levy.

## STATEMENT OF DAVID L. LEVY, PRESIDENT, NATIONAL COUNCIL FOR CHILDREN'S RIGHTS

Mr. Levy. Good afternoon, Mr. Downey.

Some people call our National Council for Children's Rights a fathers' group. If favoring a child's right to two parents makes one a fathers' group, and if favoring a child's right to only one parent makes one a mothers' group, then we are a fathers' group. Actually, we are a child advocacy group. We have a nationally prominent advisory panel. About half of our advisers and members are women.

We publish and distribute written reports and audio and video cassettes to judges, legislators and mental health professionals around the country about the needs of children of divorce.

We favor strengthening the family. We hope that if there is more public awareness of the ideas of Stinnett, Otto, Lewis & Curran, perhaps the popularity of divorce might be reduced. Those ideas on the traits of healthy families that these researchers have looked into include affirming and supporting each parent in the parenting process, communication, respective privacy, respecting others and getting help when help is needed. We would like to see the popularity of divorce reduced.

We also favor the parental leave bills and expanded child care possibilities the Congress is considering. In fact, we have declared this year as the first year of our NCCR "War Against Family Breakdown."

What happens if divorce occurs? Do we encourage two parents or do we encourage only one? Unfortunately, H.R. 1720 seems intent on propping up the single-parent family at the enormous disparity of the child's right to two parents. Let me explain.

Our economy is built on the two-parent, two-job household. If parent B is earning $15,000, parent A $10,000, that is $25,000 in the household. When there is a split, there are now two households. Parent B still has $15,000, parent A $10,000. Even if we have income shares, income redistribution, whatever, to take $2,500 from parent B and give it to A, that is still only $12,500 for each household. There is no way to equalize or to create the situation the child had when the child was living in a two-parent household because the money now has to be spread over two households. So nothing can recreate, in most cases, that economic situation where the child had two parents.

Women in this country are divided between those women who want to emphasize the two-parent family as much as possible and those who do not. Those who wish to emphasize two parents—for the maximum amount of financial and emotional support for the child—include divorced mothers, stepmothers, grandmothers, daughters. They are joined by mental health professionals who have seen the mountain of research that children with two parents generally do better than children with one parent. Do better how? Children of two parents generally have fewer problems in school and fewer problems with the law, including less drug abuse than children with a one-parent family.

I testified five times before congressional hearings in the past 2 years. When I mentioned this to Senator Moynihan a few weeks ago, he agreed and reiterated, yes, there is a mountain of research that two parents are generally better than one. There are many exceptions to this, of course. But statistically, children generally do better with two parents.

So shouldn't we emphasize the two-parent approach? The two-parent approach is what we call coparenting or joint custody. Now I realize that given the differences of opinion among women, Congress is probably not going to go for any coparenting idea even though it would be better for kids. At the very least, though, you should emphasize the Michigan system. In every other State, we have staff for child support collections. Michigan is the only State with statewide staff to also handle complaints relating to access (visitation) and custody problems. It is called the Friend of the Court system. When I mentioned to Senator Moynihan that this has been in existence in Michigan since 1919, he almost could not believe it.

There is a proven system, an alternative to H.R. 1720 that has been working for 70 years, and it is in direct contradiction to 1720. Michigan emphasizes two parents. Their staff handles complaints not just on support problems, but on visitation problems and custody problems. Knowing that there is staff that can listen and investigate both sides sends a powerful message.

Michigan also has balanced family law legislation—joint custody, mediation, makeup of visitation. Simple things, but which send a powerful message. Why am I mentioning Michigan? HHS says Michigan collects more child support per dollar spent to collect than any other State. Michigan collects $8.33 for every dollar spent to collect. Why? Debbie Stabenow, chairperson of the Mental Health Committee in the Michigan House, attributes it to the Friend of the Court staff, and the balanced family law legislation. So does Colleen Steinman, director of the Friend of the Court Bureau who spoke at our recent National Council's Second Conference in Washington, DC, in October 1987.

If you want to know about an alternative system that works and keeps both parents in the picture, I would respectfully suggest you go to Michigan. Do not talk to the child support people there. They do not know anything about this. One was asked pointblank, at a hearing of this committee last year, why does Michigan collect more child support? He did not speak about the Friend of the Court system at all. You have got to go to the Friend of the Court people.

Acting Chairman DOWNEY. Mr. Levy and Mr. Woods, I do not want to express what might appear to be a prejudice, but I am going to vote in 7 minutes' time. And I would like to have you summarize your testimony so that I can do that.

Mr. LEVY. Okay. I would be willing to stay until later. We have such radically different ideas from the prevailing view which is so important to kids with two parents, I would be glad to stay later if you are or Mrs. Kennelly could——

Acting Chairman DOWNEY. Mrs. Kennelly is not here.

We have your entire statement.

Mr. LEVY. Those who spoke for just the one-parent idea were allowed to finish, and I respectfully ask—we are willing to come back.

Acting Chairman DOWNEY. If you do not hurry, you are going to get even less time.

Mr. LEVY. All right. This is what is happening to the two-parent family in this country, but thank you.

We oppose the immediate mandatory wage withholding in H.R. 1720 because it would only apply to paying parents. It does not apply to delinquent parents. The delinquency support system is already in effect (Public Law 98-378). Requiring child support to be paid through the bureaucracy by paying parents will not be workable, and penalizes the parents who do pay. Those parents are paying directly to the other parent, directly and on time. That part of the system isn't broken. That part of it does not need to be fixed.

We hope that in any reconsideration of H.R. 1720 you will emphasize just the delinquent parents. Let us focus on the kids who really need the help, not those who do not need it.

We favor "rebuttable presumptions" in general, but it is premature right now when the States are still struggling with guidelines, to make them mandatory. Many States are trying to do away with the position of child support being related to the reasonable costs for the child. Anna Keller, vice president of our National Council for Children's Rights has authored a 65-page report assessing all the national data on child support guidelines. It is an alternative approach. It is based upon what every State high court so far has upheld. Child support can only be based on the reasonable cost of raising the child. We hope that this would be considered.

We are concerned that all the tax breaks right now go to custodial parents even for a paying parent who pays 100 percent of the costs of raising the child. The noncustodial parent does not get one tax break.

We ask you again, as we did last year, to change the wording of Federal laws from "absent parent" to "noncustodial parent." Judges call parents noncustodial. Most parents are not absent. They are around.

I also ask you to reprimand those who laughed at the word "fathers" this morning. Fathers are as important as mothers. They should not laugh at mothers or fathers. Children need both.

We also ask you to make the Census Bureau ask fathers what they pay as well as mothers what they receive. Welfare professionals are saying we may be getting very distorted data about who is paying child support. We favor the provision of the bill that would provide cash payments for two-parent families in need. There are other matters mentioned in my prepared statement.

Thank you.

[The statement of Mr. Levy follows:]

NATIONAL COUNCIL FOR CHILDREN'S RIGHTS

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**Honorable Phil Hoff**
State Senate, Vermont
Governor 1963-69

**Honorable Bobby Junkins**
State Representative, Alabama

**Joan Berlin Kelly**, **Ph.D.**
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**Honorable Fred Lovegrove**
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**Honorable Max Parsons**
State Senate, Alabama

**Honorable Fox McKeithen**
State Representative, Louisiana

**Honorable Jack Metcalf**
State Senate, Washington

**John Money**, **Ph.D.**, Professor of Medical
Psychology and Pediatrics
Johns Hopkins University and Hospital
Baltimore, Maryland

Statement of David L. Levy, Esquire, President of the National Council for Children's Rights, before the Subcommittee on Public Assistance and Unemployment Compensation, House Ways and Means, on March 2, 1988

WHAT IS NCCR?

Some people call our National Council for Children's Rights (NCCR) a fathers' group. Does favoring a child's right to two parents in marriage, as well as in divorce, make one a fathers' group, and favoring a child's right to just one parent, a mothers' group? We favor a child's right to two parents, but we are a child advocacy group.

NCCR is a non-profit, all-volunteer organization, almost entirely dependent on memberships and contributions from the public.

NCCR prepares written reports, video and audiocassettes and other educational materials we make available to legislators, judges, and members of the public, including our Evaluation of Sole and Joint Custody studies, Child Support Guideline Recommendations, Gray Areas in Child Sexual Abuse, and a School-based program for children, the survivors of the divorce wars.

NCCR favors strengthening the family, so as to reduce the popularity of divorce. The media, legislators, and family therapists should become more familiar with the research and writings of Stinnett, Lewis, Curran and Otto. If society emphasizes commitment, sharing time together, appreciation, respecting privacy, getting help when help is needed, and the other qualities that these researchers find keeps families strong, perhaps the popularity of divorce can be reduced.

A NON-PROFIT, TAX EXEMPT ORGANIZATION HELPING CHILDREN OF DIVORCE

**Honorable Velmanette Montgomery**
State Senate, New York

**Michael Oddenino**, Esq.
Los Angeles, California

**Gerald P. Regier**, President
Family Research Council
Washington, D.C.

**Honorable Marie T. Reilly**
State Senate, Massachusetts

**Mel Roman**, Ph.D. Professor
Director, Group and Family Studies
Department of Psychiatry
Albert Einstein College of Medicine
Bronx, New York

**Sue Klavans Simring**
Co-director Family Solutions
The Center for Divorce and Custody
Consultation
Englewood, New Jersey

**Honorable Debbie Stabenow**, Chair
Mental Health Committee
House of Representatives, Michigan

**Carol Stack**, **Ph.D.**, Director, Center for
the Study of the Family and the State
Duke University
Durham, North Carolina

**Nick Stinnett**, **Ph.D.**
Department of Human Development
and Family Life
University of Alabama

NCCR has declared 1988 as the first year of our "War Against Family Breakdown."

I want to make observations about the changing family, with special emphasis on child support, custody, visitation and offer recommendations for change.

1. ONE OR TWO PARENTS AFTER DIVORCE? If divorce or separation occurs, should we encourage both parents to be involved with their children, or should we prop up the single parent family? Should we encourage an enormous imbalance between custodial and non-custodial parents? Federal legislation up to now has done just this , e.g. in H.R. 1720 which passed the House in 1987 and P.L. 98-378, which became law in 1984. Let me explain.

The American economy is set up for the two-parent, two-job family. We can't support our children nearly so well in most cases in divorce, because we now have two incomes spread over maintaining two households. No amount of child support can rectify the fact that two households are now being maintained, instead of one.

Women in this country are divided between those who favor two parents after divorce, to provide the maximum amount of financial and emotional child support in a 2-household situation, and those women who favor just one parent.

The women who favor two parents for a child after separation or divorce may be divorced mothers themselves, stepmothers, grandmothers, or daughters. Or they may be professionals--researchers, social workers, mediators, teachers, attorneys, judges, legislators--who have seen the mountain of research that shows children with two parents are generally better adjusted and more likely to avoid problems in school, in their social development, and with the law than children of single-parent families.

They know that children of single parents are more likely to be involved in drugs and crime, more likely to be victims of criminal and sexual abuse, and more likely to be unwed teenage mothers and fathers, than children with two active parents.

These mental health professionals, and our National Council, favor a different approach than the child support measures contained in H.R. 1720. But there are some women's groups who seem to want to make certain that children have only their mothers. They want to prop up the single parent maternal homes which make up 90% of all single parent families. This would be just as bad as propping up the 10% of single parent homes headed by men. A child's right and need is for two parents.

Your approach should be one that encourages shared parenting, and that, we believe, is joint custody. Whatever policy keeps both parents involved is good for children, and may even reduce divorce.

Where the parents realize they must still deal with each other, there may be less incentive for divorce. Where parents falsely believe that they may control or even exterminate the other parent's involvement with their children, they may be encouraged to seek a divorce. From the perspective of the ex-spouse, the ideal situation may seem never to have to deal with the other parent again. From the perspective of the child, such a "solution" is inimical to their interests and desires. The gap between this false expectation and the other parent's continuing love for their child tragically fuels many custody and visitation battles each year.

I realize Congress is not ready to espouse co-parenting, particularly when strong lobbying groups have issued the call to support sole maternal custody regardless of the cost to the child's relationship with their father. But you ought to realize the value of two parents to children in all but the rarest situations.

2. SUPPORT COMPLIANCE INCREASES WHEN ACCESS IS ENFORCED. At the very least, you should require that all states adopt a Michigan-type "Friend of the Court" system. Michigan is the only state with staff, statewide, to help parents informally resolve custody, support and visitation problems out-of-court. Michigan officials credit this staff, plus Michigan's balanced laws for families of divorce, with the fact that Michigan collects more child support than any other state--$8.33 collected in support for every dollar spent to collect.

When I testified before the Senate Finance Committee on February 4, 1988, Senator Moynihan was surprised to learn that the Michigan "Friend of the Court System" had been in operation since 1919. He indicated he would contact leading Michigan officials such as Debbie Stabenow, chairperson of the Mental Health Committee in the Michigan House, and Colleen Steinman, director of the "Friend of the Court" System, who spoke at our National Council's 2nd Annual Conference in Washington, D.C. in October, 1987. We respectfully ask the House to also contact these "Friend of the Court" System officials. Don't contact Michigan child support officials--they know nothing about the "Friend of the Court" System.

3. ENFORCE ACCESS ON A FEDERAL LEVEL. Our National Council appreciates the $5 million H.R. 1720 and S. 1511 provides for access (visitation) model demonstration projects, funds inserted in these bills at our request. But this is only a drop in the bucket. We can't provide 1/5 of the child support offices in America with even one staffer per county for $5 million per year. And they certainly won't have any enforcement power such as the "Friend of the Court" staff has in Michigan to investigate custody and visitation orders. the proposed staff would only mediate.

In Prince George's County, Md., visitation staff was hired at our National Council's request. They report after one year an 80% success rate in resolving visitation complaints, whether filed by the custodial or non-custodial parent, an average settlement time of 1 hour, 37 minutes, at an average case cost of $15.00.

When I recently testified before Senator Moynihan, he indicated he would consider a proposal to increase the amount of money provided in S. 1511 for these access demonstration projects. We respectfully ask this Subcommittee to work on a conference provision that would increase this amount well above $5 million.

By the way, we prefer the House version for these model projects better than the Senate's version. The House bill provides funds for 3 years with no performance evaluations such as the Senate bill would require. So few counties or states involved for so short a time make the Senate bill's evaluation requirements unrealistic. The best approach is $40 million per year with no time limit for this process--a small amount of money that can go very far in helping children.

4. WHY REQUIRE PAYING PARENTS TO PAY? We know you want to help children, but the requirement to have the government act as a middleman for the collection of money is unprecedented in America. We do not make our car payments to the government, with the government to pay the car dealer--except in limited situations. We do not make our house payments to the government, with the government to pay the banker--except in limited situations. Having the government act as middleman for the collection of non-delinquent child support is not only an unnecessary intrusion of the government in the lives of people who have done nothing wrong, but is wasteful, expensive and will delay child support payments to millions of children who now get their support directly in full and on time from the

paying parent. It also will endanger jobs, and credit ratings for many employees may be worsened because checks may be late or lost, or the state may not cut a check to the receiving parent in time.

Whenever we explain to people that there is already a law, P.L. 98-378, passed in 1984, to provide wage withholding for parents who are delinquent in support, and that this new bill would only apply to parents who pay all their child support on time, people can't believe us. We explain to them that under the bill, each payday the employer will have to withhold support and write a check to the state. The state will then write a check to the custodial parent, and collect a fee from the U.S. government for this service.

That is what this bill would require. And that is why some states like this provision. It means a guarantee of millions of dollars of sure money--money which is paid in support--flowing through state coffers. Not only millions of dollars that the states don't now have, but millions of dollars in extra incentive payments from the federal government for collecting money that would be paid directly to the other spouse anyway.

This is not support payments from the unemployed, or welfare people--you can't put welfare people or the unemployed on wage withholding. They have no wages to withhold!

It is also not support from teenage fathers, and other unwed fathers, for whom there are often no support orders, and who are lumped in with the divorced parents, who generally pay. H.R. 1720 will only apply to parents who pay.

This immediate withholding assumes guilt before innocence, and will give kids the impression that the state is supporting them--because that is where the check is coming from. In Virginia, a prototype child support computer system has been roundly criticized by HHS for causing incredible delays in getting money to the right address.

Let's first study how the 1984 law is working, a survey HHS has commissioned, before we add on an unnecessary layer of government intervention. We submit that making everyone pay support through the government also runs afoul of the President's Executive Order on the Family issued Sept. 2, 1987. That order essentially says if the family can perform a certain function, let it do so. If parents are paying support, leave them alone.

The provision that would allow parents to work out direct payment plans is not realistic. Given the anger and upset that accompanies most divorces, most parents will not be in a frame of mind to agree to allow the other parent to make or to continue making direct payments, and the states will have no financial incentive to encourage them to do so. Other reasons against having all child support flow through the government is given in Vol. 3, No. 1 of our NCCR Newsletter, which is available upon request.

We suggest that this provision be omitted in any reconsideration of the bill.

5. CHILD SUPPORT GUIDELINES. H.R.. 1720 would make state child support guidelines a "rebuttable presumption" for judges. This is more reasonable than the Senate version, which would make the guidelines mandatory upon judges. Still, either approach is premature now, when many states are still struggling with basic guidelines. There is still not one study of the costs of raising a child of divorce (although we have at least five studies, with widely varying figures of costs within marriages).

There is also no accountability for how child support is spent, in H.R. 1720 or S. 1511. A parent could spend $5,000 to $10,000 or more in child support, but his child might still not have shoes that fit.

Many states are trying to change the historic principle of having each parent pay a portion of the reasonable costs of raising the child. Instead, they are going with an income shares or income equalization approach. The federal government is mandating guidelines for the states, but many states are contemplating proposals which take a percentage of gross rather than net, and which do not figure in the non-custodial parent's costs when the child is with that parent. In Washington, D.C. where judges have adopted guidelines providing that non-custodial parents pay 25% of their gross salary for one child--similar to Massachusetts guidelines--Washington Post columnist Judy Mann frankly admitted this was partially spousal support. We agree that women over 40 with inadequate job skills especially need spousal support. But this is no reason to abandon the reasonable costs tests. The House calls for a study of the costs of raising children of divorce, but the Senate's bill doesn't. That study should be made! The study should include the costs of the non-custodial parent when the child is with that parent.

6. TAX BREAKS. There are four tax breaks that flow to a custodial parent. They are: the exemption for the child: child care costs: favorable head-of-household IRS treatment: and tax-free child support income to the recipient. There are no tax incentives for a non-custodial

parent. You should at least allow a deduction for child support that is actually paid. Payments can be proven by receipts or cancelled checks.

7. FEW "NON-CUSTODIAL" PARENTS ARE "ABSENT" PARENTS. We also renew a suggestion we made a year ago before this subcommittee that you replace the words "Absent" parent as used in federal child support legislation with the words "Non-custodial" parent. This latter term is used by the courts, and should be used by you--except in instances where a parent truly is missing. The right language might help you to focus on the right issues.

8. INTERSTATE COMMISSION. Both the House and Senate bills require the establishment of an interstate commission on child support. The House requires that custodial and non-custodial parents be members of the commission; the Senate makes no such requirement. We favor the House version, but would make it stronger, so as to include representatives of custodial and non-custodial parents' advocacy groups, and to permit the commission to consider the effects of interstate visitation on support.

9. THE CENSUS BUREAU SHOULD ASK FATHERS WHAT THEY PAY. Because the Census Bureau only asks mothers what they are receiving in support, and does not ask fathers what they pay in support, Welfare Professionals are raising the possibility that lawmakers and the media are being fed false or misleading data. This matter could be cleared up if the Census Bureau were to ask fathers what they pay in support, as well as to ask mothers what they receive. In the few cases where non-custodial mothers are asked to pay support, the Census Bureau could ask them what they pay as well as ask fathers what they receive.

The Census Bureau usually doesn't like to add new questions to its questionnaires. But sometimes it is necesssary. Of course, an alternative approach would be not to add any questions, but merely amplify a question already asked, by stating "What do you pay or receive in child support" (not just what you receive). The total nationwide figures could then be divided in half on a nationwide basis, which statisticians say would more closely approximate the truth than the incomplete question now asked.

10. PERMIT RETROACTIVE MODIFICATION OF CHILD SUPPORT ORDERS--in hardship cases. A few years ago Congress passed a provision, with no hearings and as a rider onto another bill, P.L. 99-509, totally prohibiting state judges from retroactively modifying a child support order. No wonder, when I testified before a Maryland legislative committee recently, state officials criticized this as a poorly drafted law. In Maryland, they have hearings on every bill, and no bills are attached as riders to other bills. In this

respect at least, Congress ought to take a leaf from my state of Maryland.

If that bill had created a "rebuttable presumption" against retroactive modification, that would have been reasonable. But an outright ban reduces judges to automatons and creates incredible hardship. We know of a case where a woman has received support, but then the couple resumed living together, with the man supporting the family. Later, there was a second separation, and the woman demanded and got support for the time when the couple was living together, because of that original support order. The couple didn't know they had to go court for modification of the order. In other instances, there is a support order, but later, there is an informal exchange of custody, with the child going to the father. Years later, the woman applies for and receives support for the time when the child was living with the father. A simple change in this law--to "rebuttable presumption" against retroactive modification, would serve Congress's intent, without denying equitability in specific cases.

11. PAYMENTS TO 2-PARENT FAMILIES. The provision in H.R. 1720 that would permit cash payments for 2-parent families in need, where the primary breadwinner is unemployed or underemployed discourages family break-up. We respectfully ask that Congress apply the same 2-parent emphasis to its child support provisions. We respectfully ask that Congress apply the same 2-parent emphasis to its child support provisions.

An emphasis on maintaining two parents for children of separation or divorce will provide more incentives for payments, better parenting, safer streets, and help a generation of children from becoming children at risk.

Thank you.

Acting Chairman **Downey**. Thank you.
Mr. Woods.

## STATEMENT OF RICHARD C. WOODS, PRESIDENT, FATHERS FOR EQUAL RIGHTS

Mr. **Woods**. Mr. Downey, I spent 4 months of my wages to get here today, and I have listened to 5 hours of father-bashing. I am not even going to be allowed 3 minutes to testify. Is it possible for you to return?

Acting Chairman **Downey**. Mr. Woods, you did not listen to 5 hours of father-bashing. You listened to 5 hours of testimony by thoughtful individuals who had a point of view.

Please proceed with your testimony.

Mr. **Woods**. There are 20 million divorced and unmarried fathers in the United States, and some of these people are negligent in paying child support. You heard Mr. Mattox of Texas say that no one knows exactly what the percentage is, though, and he is right.

It is the absolute policy of my organization that both parents should support their children. There is very little prospect that a court will assist a father in enforcing his visitation rights or getting custody or joint custody if he is behind on child support. It is irrational to expect anything else.

We are proud that Iowa is among the top States in the Nation in support payments. Our child support recovery program is rated first among the 50 States in cost-effectiveness in support collections in the public assistance program and fourth among the 50 States in overall program effectiveness. We believe this reflects particularly well on Iowa fathers. Iowa is one of the few States, by the way, who passed the auditing sessions of which so much discussion was made this morning.

We feel it is no accident the Iowa Legislature and courts have responded by giving Iowa fathers the best visitation enforcement and joint custody laws in the United States. There is a significant correlation between the reliability of support payments and the ability to enforce visitation rights.

Another area in which Iowa has been in the forefront, we were the first to implement a centralized, computerized, statewide collection service center. Virginia apparently tried but had to give that up. The distinction I want to draw is that this is not child support recovery but collection. The function that was formerly assumed by the clerks of court was taken over by the State. Unfortunately, the Iowa experiment is a public relations disaster of the first magnitude. It has created monumental personal tragedies for both fathers and mothers.

The collection service center was established in undue haste and with regrettably single-minded motivation. The collection service center operated with an inexcusable lack of compassion for its clients and allowed thousands of false delinquency notices to be sent out, knowingly sent out after the staff knew the computer was generating errors of amazing proportions.

Just the highlights of the highlights here.

Acting Chairman **Downey**. I am going to go vote, and then I am going to come back. So why do you not just wait.

Mr. Woods. I would appreciate it.

Acting Chairman Downey. I have a few questions so I will be back. I will go vote and then return. The subcommittee is in recess.

[Brief recess.]

Acting Chairman Downey. The subcommittee will be in order. Mr. Woods, please continue.

Mr. Woods. Mr. Downey, first I would like to apologize for my earlier remark. It was intemperate. I have taken 12 pages of notes today myself. I think the ideas were very good. I was a little upset at being——

Acting Chairman Downey. I understand. Please continue.

Mr. Woods. I was talking about the computerized system in Iowa. We have had a year of experience with that now, and I hope that the problems that we have encountered can be avoided. I think I have some suggestions here that will help.

Because the child support enforcement amendments and the welfare reform bills contain provisions to encourage increasing computerization of support payments processing—just the payments, not the collection service—it is important that you understand what transpired and why it happened.

The decision to create a collection service center in Iowa was a gamble, and it was a gamble for which those who were initiating the decision were poorly prepared; 200,000 fathers, 200,000 mothers, and 314,000 children were hurt by that gamble.

I presented in my written remarks a summary of the toll, but let me say, Mr. Chairman, because I think it is so important, one father committed suicide after the collection service center kept insisting that he was $3,000 delinquent on child support. $30,000. I am sorry, $30,000 delinquent on child support. In fact, we have evidence that he was not delinquent at all.

Other lives were messed up, and both fathers and mothers have lost money and had to pay attorneys' fees. I will let you check that out from my remarks.

The system is not flexible enough to handle every case, and that is something the committee needs to know. Some support orders contain special provisions, such as contingency clauses related to the physical-care arrangements of the children. They contain clauses dealing with cost-of-living increases, tax exemptions, mortgage payment, health or life insurance, noncash payment, such as clothing, food, or a cow, literally. One father was ordered to pay a cow to the mother every year. I respectfully submit, sir, that they can send a cow through the computer. [Laughter]

Many of these cases won't fit any program. There is no way for that kind of program to be written. And since these do suit the parties very well—the court very thoughtfully entered these orders—I think it would be a mistake to try to enforce uniformity merely to meet the needs of the computer programmers, so I hope that some exceptions to putting all of the cases into the system will be permitted.

It was decided that the collection service center would cash all checks, and then issue new checks. The reason for this, the motive for this, was that they said, well, such a great number of fathers send rubber checks to the mothers.

Well, in fact, what happened is less than one-tenth of 1 percent bounced, and in our research, we found that many of those fathers only had a bounced check once, because there was a shorter float time. And I know that it is illegal to float checks, to kite checks, but frankly, almost everybody I know does sometimes.

So I think it would have been even lower than one-tenth of 1 percent. I think that speaks very well for the reliability of the fathers who are sending their child-support checks through.

If the CSC is retained in Iowa or created in other States, the matter of independent functioning of support processing and support enforcement must be clarified and resolved by law. It should be an entirely separate agency.

I like the idea of putting something like this under a Department of Revenue or under the State Justice Department. It is a bookkeeping function, and it is inconsistent. And it is something like asking the fox to count the chickens as you send them into the chicken coop, to have them handled by the same agency.

Such programs should be phased in by entering into the system new orders from divorces and paternity orders, modifications from existing orders in which the court verifies the necessary documents, and then the mandatory withholding orders. Mandatory withholding, of course—that takes care of the needs of the system for increasing automation.

So I think all those can justifiably be put into the system. But to bother with the other cases, for one thing, seems to be an unnecessary expense. And I am not sure why Congress or, for that matter, any State Government would want to create that additional paperwork burden and the risks that were unfortunately realized in the State of Iowa.

I want to speak a little bit about mandatory withholding. As I commented earlier, no one is hurt more by those fathers who are willfully negligent in making child support than I am. I am, by the way, a custodial parent.

Almost anything Congress can do to go after those willfully negligent fathers and collect that delinquent support will be welcomed by me and my organization. And I will take a minute at the end to respond to some of the suggestions that were offered earlier.

I do think it is important that Congress not hang the wrong guys. The 1984 amendments called for support enforcement for fathers who were 30 days delinquent on child support. We didn't oppose that.

I do think that to go after the other fathers, those who are left, those who are not delinquent on child support, would be a mistake. And we have heard the testimony repeatedly that only such a small percentage are current on child support. Well, the same people testified that nobody knows how many fathers are current on child support. But let's assume that it is only 15 percent, as they said.

Mr. Chairman, that is 3 million fathers who are reliable, who are decent and responsible toward their children. And I don't think they ought to be penalized. And the law could be written so that they would be penalized.

We want to see willfully delinquent fathers forced to pay as much as anyone. However, we do not want to see well-intended legislation penalize the wrong people. And I believe the Congress shares that view.

Correcting the deficiencies in existing mandatory withholding laws. Because Iowa had adopted mandatory withholding after 30 days before Congress did, we probably had one of the longest experiences of any of the States in this area as well.

I urge you to keep in mind first that not all fathers who fall behind on child support do so willingly. I think the fact that they are behind, of course, probably would justify putting them under mandatory withholding later.

But I think it is important to realize that Iowa, for example, has been put through a severe economic depression during most of this decade. And in many areas of the State, there were no jobs at any price, so that made it very difficult to remain current on child support.

While current mandatory withholding law with the 30-day delinquency provision has largely worked as expected, there are cases in which it has had unintended consequences. Certainly, the most severe unintended consequences are the surprisingly large number of cases in which the father has, for one reason or another, fallen behind on child support. He is then placed in the position of being under mandatory withholding.

Then the children come to live with him. Well, that is fine. But when he asks to have the child support withholding order removed so that he can support the children who are now in his home, he is told, go hire an attorney.

Well, sir, if they are taking 65 percent of your income for a mandatory withholding order, and you now have the kids with you as well, there are precious few fathers who could afford to hire an attorney.

And my organization has tried as far as we can, without getting into unauthorized practice of law. But there are limits to what we can do. And so there are a lot of fathers—one case, the most severe case I know of, a father who has had the child with him in his home since June 1986, has not been able to get the mandatory withholding order released. They continue to take 50 percent of the income and mail it to the mother in Texas. She cashes the checks, and she does not return the money. Now, that is taking food out of the mouths of children.

Two other cases, though extreme, are important to illustrate the same point. The children were removed from the mothers' homes because of child abuse. The father asked the court to lift the mandatory withholding order. The request was refused by the child support recovery unit, citing Federal regulations, by the way.

In these two cases, the fathers were forced to give up custody of their children and place them in foster care. Mr. Chairman, that is a backward public policy.

In other cases, court orders provide the father shall have the children in their care for extended periods of time, such as the entire summer, during which child support will abate. Well, that is what the court order says, but the mandatory withholding orders are basically prepared off a boiler plate. So they will continue to take the withholding out of the father's paycheck through those extended periods of time when he has the children with him. Again, that is not helping children; that is hurting them.

There are many cases in which fathers have custody of one or more children from the marriage, while other children from the same family reside with the mother. Again, if the mother happens to go—maybe the court said there will be no child support paid, because it is a wash. The father and mother both have income to support the children who are in their care, and we will just let everything be a wash, no support order.

But suppose then that the mother quits her job and goes on AFDC. Then the 4D people will come after the father, take—in Iowa, it is $322 a month, through a mandatory withholding order, which penalizes the children who are in his home.

Congress needs to respond to that, and frankly, I think the Office of Child Support Enforcement and their regulations need to respond to that. I think they could, under the existing law, if they would be motivated to do so.

Further, there are a very large number of cases in which fathers have remarried and begun second families. The children of the second marriage are adversely affected by mandatory withholding orders. Now, we are always told that, of course, the children of the first marriage come first.

But Mr. Chairman, those children by the second marriage are being treated as a deniable reality. They are there, they are human beings, they are children, and they deserve our support, not to have their household incomes so adversely affected that they have fallen below the poverty guidelines, and yet can't get any support of any kind, any public assistance, because the father's total income is calculated in determining their eligibility for public assistance. That is another policy that hurts children.

An entire additional category, and perhaps I have saved the most important for last, because it affects the most fathers, relates to the employers of the fathers. While law prohibits firing a father for being under a mandatory withholding order, I have at least 200 cases in my computer file in which, after a long work-history with the same employer, the father was fired within a few days of being placed on a mandatory withholding order.

The employers may give other excuses, the truth of discriminations against fathers under mandatory withholding orders is obvious. Yet none of the 200 fathers I have tried to help have reclaimed their job or successfully prosecuted civil claims against their former employers.

Further, we have a court monitoring, a State-wide monitoring, for our organization. And none of our court monitors was able to find a single case in which a father has been ordered to be reinstated to his job or given any damages as a result of being laid off for a mandatory withholding order.

The position of small employers I understand. Not only is it an additional paperwork burden, which is what is usually cited, but the small employer is also made liable by law for the part of the father's income which should be withheld for child support.

Many employers, Mr. Chairman, have only high-school educations, and that kind of paperwork is very challenging to them. And

I think they are in fear that they will make a mistake and be held liable for money that should be sent to the mother.

Further, if there is a temporary layoff or work slow-down, I think mothers can be hurt in these cases, rather than helped, by a mandatory withholding order. If the father has been relying on the employer to send the support through to the mother, and he is coming up on a layoff, he is not thinking, oh, gee, I ought to set some money aside so I can make the child support payment while I am on this layoff. He has been expecting the employer to do it.

Under the existing system, where the father at least has a good prospect of not being on mandatory withholding, he will be saving up. He knows it is his responsibility. He writes the check every week or every 2 weeks or every month, and he will save a little aside or maybe even borrow something at the time of the layoff, so that the mother continues to receive that support check reliably. Again, I don't think that that helps the mother in those cases.

But in any case, the most dramatic cases are those in which the fathers' employers have called me to ask if I could get the mother and the mother's attorney off his back, the employer's back. In one particular case, the attorney was threatening to garnish the business accounts, attach the business accounts, because the attorney suspected that his client, the ex-wife, had not received all the child support to which she was entitled. This would have put the employer out of business and put a number of people out of work.

After trying unsuccessfully to mediate with the ex-wife's attorney, I had to advise the employer that it appeared to me the only way to save his business was to terminate the father. I advised the employer to break the law, and he did. And the father was fired.

In another case, a bankrupt farmer was ordered to pay $645 per month in child support. He lost everything he owned in the divorce and was doing farm work on his mother's farm in lieu of rent on the farmhouse.

The child support recovery unit decided that the 75-year-old grandmother is an employer paying a salary in the form of rent-free use of the farmhouse, and entered a mandatory withholding against her. Now the ex-wife and her attorney can garnish the grandmother's Social Security or force her to throw the son off the farm.

I have a number of recommendations for the future of child support enforcement which I think will be helpful. There are dozens of rational, sensible steps which we could take to discourage divorce, a few minor legal changes.

Marriage enrichment classes, subsidized marriage counseling for low-income families, an investment of a tiny fraction of what we currently spend on welfare and support enforcement, could save enormous sums in future support delinquency and welfare costs.

Much of the cost resulting from the negative impact of divorce on children—educational deficiencies, juvenile crime, alcoholism, drug treatment, and teenage pregnancies—are also costs that we could recoup by a small investment in saving families.

Another positive step—although I consider it irrational and wrongheaded, the truth of the matter is that many fathers stop paying child support when they are denied visitation rights. By providing some funds or some options to those fathers to enforce their visitation rights, we know for a fact that will reduce support delinquency.

In our experience in the State of Iowa, this approach is the most efficient. And we do not oppose the recommendation of mediation contained the access provisions of the Welfare Reform Bills. However, it would be better to put the emphasis on changing visitation laws so that they are more effective, and then publicizing the possibilities for enforcing visitation rights. That is a more cost-effective solution. I think they should both be done, both the mediation and the changes in the visitation statutes, and then publicizing ways to exercise those statutes.

The current tax law acts as a disincentive for paying child support. The law denies fathers the tax deduction for children even if he has been awarded that tax deduction by court order. The IRS requires the additional step of obtaining a signed form A332 which, notwithstanding the court order, mothers frequently refuse to sign.

Further, fathers get no credit for paying child support, even though it is often an involuntary transfer of income from one household to another.

Another option would be for Congress to create an additional civil penalty for willful delinquency on child support, perhaps a sliding scale or as a percentage of the delinquency accrued.

Further, in cases in which the mother is on ADC (sic), rather than raising the fixed dollar amount to $50 of the support being passed through to the mother and children, base the amount on a percentage or a sliding scale, so that would give the father an additional incentive to pay his full child support amount.

Right now I know of cases in which social workers have recommended that fathers pay only the first $25 or the first $50, and then give everything else in the regular support payment to the mother under the table, so that she has the maximum amount of income for the children.

In addition to this, I would suggest, and this is certainly a very easy step, limit the number of exemptions delinquent fathers can claim on their W-2 form. This would increase the amount of withholding for IRS, and of course, that can then be reclaimed and sent to the mother or used for the State offset programs. A very easy step.

Treat child support as a constructive trust, so that fathers can be assured that the support is being spent on children. This could be done without a great additional amount of paperwork, but it would provide the fathers with some assurance. Some fathers, believe it or not, that even though their support does not seem high to me, that they know for a fact that it isn't being spent on the children. Well, give them the assurance, then.

I like the recommendation of the Texas attorney general, automatic withholding—he said that we should make it a crime for a parent to move without leaving a forwarding address. I think that is a good idea. I would endorse that heartily, and I think it should be applied both to the custodial and noncustodial parents. That would create the possibility of enforcing visitation rights.

I like the recommendations of the gentleman from Massachusetts, a number of his recommendations. Progressive discipline—he called it a pyramid of enforcements. Making crossing State lines to evade child support a Federal offense, and the mandatory jail sentence—if you applied the same penalty to visitation rights, by the way.

I like the idea of job training for noncustodial parents. A lot of fathers who come to me would like to pay the amount they were ordered to pay, but they can't get a job that would allow them to earn that much money.

We support guidelines with the force-rebuttal-presumption. I think that those guidelines—current law provides that they could go up but not down. That is obviously discrimination, Mr. Chairman. Of course they should go down. If the father can't earn as much money as was ordered or agreed upon under duress, certainly it should be adjusted according to the guidelines.

And finally, I would say again that, assuming the worst case, there are 3 million of us fathers who are current on child support. And I hope the committee will take that into consideration.

[The statement of Mr. Woods follows:]

TESTIMONY TO THE PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION SUBCOMMITTE OF THE U. S. HOUSE WAYS AND MEANS COMMITTEE

March 2, 1988

There are 20 million divorced and unmarried fathers in the United States. Some fathers and mothers are willfully negligent in the payment of child support. I am not here to speak in defense of those willfully negligent parents. Indeed, no one is hurt more than I am by their irresponsibility. They perpetuate the negative stereotype which maligns me and the members of my organization whenever we appear in court to seek custody, joint custody, or enforcement of our visitation rights; go before our state legislatures to ask for better visitation enforcement laws; or even try to make ourselves heard by congress.

It is the policy of my organization that fathers and mothers have an absolute obligation to support their children. In counseling over 1,000 fathers, I always advise them to remain current on child support or get caught up if they are behind. This is because there is very little prospect that a court will assist a father in enforcing his visitation rights or getting custody or joint custody if he is behind on support. The general policy of the court is that they can not receive equitable treatment by the court if they do not have "clean hands".

We are proud that Iowa is among the top states in the nation in child support payments. Our Child Support Recovery program is first among the fifty states in cost-effectiveness in support collections in the public assistance program and fourth among the fifty states in overall program effectiveness. We believe that this reflects particularly well on Iowa fathers.

Our actions are consistant with our words. After the Iowa legislature adopted a "long-arm" statute for enforcement of child support orders against fathers in other states, our organization was the first to initiate a long-arm enforcement proceeding.

We feel it is no accident that the Iowa legislature and courts have responded by giving to Iowa fathers the best visitation enforcement and joint custody laws in the United States. Indeed, there is little question that there is a significant correlation between the reliability of support payments and ability to enforce visitation rights.

## COMPUTERIZATION OF SUPPORT PAYMENT PROCESSING

There is another area in which Iowa has been in the forefront. Iowa was the first state to implement a centralized, computerized, state-wide Collections Service Center. (Virginia apparently began but did not complete such an experiment.) Unfortunately, the Iowa experiment is a public relations disaster of the first magnitude. It has created monumental personal tragedies for both fathers and mothers.

The Collection Service Center was established in undue haste with regrettably single-minded motivation. The Collection Service Center operated with an inexcusable lack of compassion for its clients which allowed thousands of false delinquency notices to be sent out long after the staff knew the computer was generating errors of amazing proportions.

180 computer program errors were built into the system. Thousands of checks were misdirected with serious legal and credit consequences for both fathers and mothers. Although we are told the errors in the computer program have now been repaired, we are a long way from repairing all the damage that was done. A special committee of the legislature called to investigate the situation has ordered that all

conversion of case files from the offices of the clerks of court to the state computer be frozen. There is at least a fifty-fifty chance that the Iowa legislature will vote to abolish the Collection Service Center.

The child support enforcement amendments in the welfare reform bills contain provisions to encourage increasing computerization of support payments. It is important not only that you understand what has transpired in the experiment in Iowa, but why it happened.

The decision to create a Collections Service Center in Iowa was a gamble with the credit ratings, custody, visitation rights, housing, jobs, and lives of 200,000 fathers, 200,000 mothers, and 314,000 children. The state gambled on a child support computer system (CSC) - and WE lost.

To briefly add up the toll, one father committed suicide after the computer falsely reported that he was $30,000 delinquent on child support. At least two child custody hearings were stopped by judges when Collection Service Center notices showing thousands of dollars of non-existent child support delinquency were presented to the court (the judge promptly dismissed the case without hearing the father's testimony). Hundreds of fathers have lost precious visitation time with their children in retaliation for paid but misdirected support payments. As recently as this past December, fathers who only get to see their children twice a year because they live in distant states, missed their Christmas visits. Other fathers suffered damaged relationships with their children, damaged credit ratings, damaged careers, legal expenses and attorney fees, and garnished bank accounts, ALL based on FALSE notices of delinquency and missing checks.

At a public hearing sponsored by my Fathers for Equal Rights organization on the CSC, fathers with complaints were outnumbered by mothers at least two to one. Many child support recipients testified that their support checks were still missing months after their cases were put on the computer. In many of these cases, the mothers had hard evidence that the checks were mailed by the father or the father's employer. One mother said she knew the checks were sent because SHE was the one who put them in the mail. Others testified that checks were lost and the CSC had no record of the lost checks. Some of the mothers testified that they were in danger of eviction from their homes, utility cut-offs, and penalties on past due accounts. Many were going to have extra legal costs because of the problems.

All fathers and mothers who had problems faced the added frustration of telephone lines into the Collection Service Center, which were busy day and night for two solid weeks.

While the computer program may be fixed, still to be resolved is the matter of accountability for those who knowingly allowed the false notices to be sent out and the liability for the errors that were made.

Conversions of existing cases from the clerks of court to the CSC computer were halted in September, reducing the deluge of new complaints. However, that should not be allowed to create the false impression that all problems were solved.

Hundreds of fathers were told, incorrectly, to ignore delinquency notices and other problems. They received this advice from CSC staff, clerks of court, and other sources. This advice submerged complaints, but will lead to legal and financial problems later, such as damaged credit ratings or mandatory withholding. The truth is that plans DO NOT include reconversion of cases on the computer unless fathers or mothers follow up on complaints.

While the computer program has, apparently, been fixed, thousands of clerical errors in reading and interpreting support orders and errors in entering data have not been resolved. In one case, a clerk interpolated an "8" and a "0" on the date of entry of the decree. The computer produced a notice that the father was $50 million delinquent on child support. A CSC official commented, "Non-computer errors were MUCH too high, MUCH higher than expected."

I am satisfied that new procedures will allow fathers to catch errors before they are entered in the computer and should improve accuracy of clerical conversions to an acceptable level. However, I am concerned that plans do not call for applying these procedures to cases already "converted". A private business which ignored responsibility for past billing errors would soon be out of business.

Many fathers have not received notices that their cases have been converted. Many of these fathers have been ORDERED to make support payments in cash by the court or the Child Support Recovery agencies, including some counties where cash payments were the standard operating procedure. Some of these fathers won't learn about the conversion until they become the victims of adverse legal actions, such as mandatory withholding or lost tax refunds. Even though many of these fathers are current on support, they will be forced into expensive litigation to repair the damage.

The system is not flexible enough to handle the complexities of some cases. Some support orders contain special provisions, such as: contingency clauses relating to physical care arrangements; cost-of-living increases; changes in the father's or mother's income or educational status; tax exemptions; mortgage payments; health or life insurance payments; and non-cash payments, such as clothing, food, or a cow. Many of these cases won't fit ANY computer program. These provisions work well for the parties involved. Similarly, satisfactions of judgment will not be shown on payment records generated by the state computer. The government should not attempt to impose uniformity on these cases for the convenience of computer programmers. Further, such cases will result in false delinquency reports to credit agencies.

It was decided that CSC would cash all support checks and then issue new state checks to the mother because, we were told, many support checks bounce. However, by CSC figures, less than one tenth of one percent of all checks have bounced. Some of these bounced checks are due only to the shorter turn-around time created by the CSC. Fathers accustomed to a week or more of "float time" before the check was cashed were taken by surprise when their checks were cashed by CSC the day after being dropped in the mail. Even so, by CSC's own statement, this percentage of bounced checks is MUCH lower than expected. It is even lower than the rate expected by a private business. Since CSC figures prove that fathers are far more responsible than assumed when this policy was implemented, it is not necessary for CSC to cash support checks.

We are concerned about this because cancelled checks can be useful in locating mothers who have moved without notice to the father. Further, at least one father told us that he monitors the cancelled checks to see that it is, indeed, the mother's signature on the check. Some checks had been cashed by the mother's boyfriend to support his drug habit. Cashing of checks by the CSC takes away these options.

Should Iowa's CSC be abolished and the functions of processing support payments returned to the clerks of court? CSC does provide advantages to fathers. It offers the possibility of electronic transfers and payments through automatic teller machines. Further, CSC can provide data which will undoubtedly prove that claims about the numbers of "deadbeat dads" who fail to pay child support are incredibly exaggerated.

The problem is that the potential number of payments which needed to be flawlessly transfered from the records of the clerks of court to the computer in Iowa could be as high as 200 million transactions. Plans for conversion of existing cases from the clerk of court to the CSC were unrealistic and created enormous problems for parents. Procedures for error correction were terribly inadequate.

When the Collections Service Center was proposed, we were assured that the CSC would be kept entirely separate from child support enforcement, both in staff and function. We have since learned of a hidden agenda to use CSC as an enforcement tool. This is a conflict of interest which would compromise the integrity of the record-keeping function. This is analogous to putting the fox in charge of counting the chickens.

If the CSC is retained in Iowa or created in other states, the matter of independant function of support processing and support enforcement MUST be clarified and resolved by law.

With these qualifications, our position on the future of the Collections Service Centers is that such programs can serve useful functions and provide some advantages to fathers and mothers.

However, such programs should be phased in by entering into the system only orders from new divorces and paternity orders; modification of existing orders in which the court varifies the amount of support owed, the amount paid, and the delinquency, if any; and mandatory withholding orders in which the past payment record and any delinquency is varified and acknowledged by both parties. Conversions of existing files from the clerks of court to the centralized computers are confusing, hazardous, and of questionable benefit. At most, such conversions should be initiated only on a voluntary basis by parties who want to take advantage of electronic transfer or payment through automatic teller machines. We hope that you will not make the mistake of cloning the Orwellian monster which was created in Iowa and inflicting it on other states.

AUTOMATIC MANDATORY WITHHOLDING

As I commented earlier, no one is hurt more by those fathers who are willfully negligent in making child support than I am. Almost anything congress can do to go after those willfully negligent fathers and collect that delinquent support will be welcomed by me and my organization.

- BUT DON'T HANG THE WRONG GUYS! The 1984 amendments to the child support enforcement law, then HR 4325, provided that all fathers who are thirty (30) days delinquent on child support would be placed under mandatory withholding. As a practical matter, basing legal actions on shorter delinquencies is probably not managable. Therefore, for all practical purposes, all fathers who are delinquent on child support are covered by the existing law.

Who is left to be penalized if congress adopts automatic mandatory withholding as contained in the current welfare reform bills, HR 1720 and S 1511? Automatic mandatory withholding penalizes ONLY the fathers who are CURRENT on child support, including some fathers who haven't missed a child support payment in seventeen (17) years.

The amendment added to HR 1720 by the House on December 16 would cover EVERY divorced and unmarried father who is current on child support, not merely new divorce cases or modifications as provided by earlier versions of the bill. I am certain that this was adopted by the House with the best of intentions, but the effect would be to penalize the responsible, reliable fathers who are CURRENT on child support. Even the Office of Child Support Enforcement has varified that this is precisely what HR 1720, as amended, would do.

We want to see the willfully delinquent fathers forced to pay as much as anyone, if not more so. However, we do NOT want to see well-intended legislation penalize the wrong people and I believe that each of you share that view.

CORRECTING DEFICIENCIES IN EXISTING MANDATORY WITHHOLDING LAWS

Iowa adopted mandatory withholding after a thirty day delinquency before congress adopted the 1984 child support enforcement amendments. That has given us experience and perspective on mandatory withholding beyond that of most states. I want to stress that in most cases, mandatory withholding after thirty days works as it was intended to work. While the impact of taking sixty-five percent of a delinquent father's take-home pay is severe, it is probably more productive than throwing a father in jail on contempt (although some optional enforcement mechanisms are presented below).

I urge you to keep in mind that not all fathers who fall behind on child support do so willingly. As you are probably aware, Iowa has suffered through an economic depression through most of the past decade. Lay-offs, reductions in hours, pay cuts, and farmers who found themselves operating at a loss were caught in a vice between child support orders issued in better economic times and the realities of an economic depression. There were no other jobs available in many areas of Iowa at ANY wage. These fathers fell behind on child support through no fault of their own and were unable to afford the attorney fees necessary to modify their support orders. It would be helpful to have an administrative process for reducing child support orders for fathers who are faced with loss of income through no fault of their own. This should be done keeping in mind that intact families would handle such a crisis by reducing their standard of living.

While the current mandatory withholding law with the thirty-day delinquency provision has worked largely as expected, there are cases in which it has had unintended consequences. Certainly the most severe unintended consequences are the surprisingly large number of cases in which the father has, for one reason or another fallen behind on child support and is placed under a mandatory withholding order; then, at a later date, the children go to live with the father; the father asks the Child Support Recovery Unit (CSRU) to stop the mandatory withholding order; he is told by the CSRU officer, citing the provisions of Office of Child Support Enforcement regulations forbidding the lifting of mandatory withholding orders, "Go hire an attorney." There is no way for most fathers, already under mandatory withholding orders taking up to sixty-five percent (65%) of their income, then saddled with the costs of feeding, clothing, and housing their children, to afford legal representation. In one case on which I have worked, the son has lived with the father since June, 1986 and the father STILL has not been able to afford the necessary filing fee just to get the modification on file. The mandatory withholding order continues to send fifty percent of his income to the mother who is living in Texas. She keeps the money. To speak very plainly, this puts the government in the position of stealing food out of the mouths of children, rather than protecting them, as the law was intended to do.

Two other cases, though extreme, are important to illustrate the point. Two fathers were placed under mandatory withholding orders. Subsequently, following incidents of child abuse in the home of the mothers, the children were removed from the mothers' homes and placed in the homes of their fathers by the juvenile court. The fathers asked that the mandatory withholding orders be lifted so that they could afford to care for their children. The request was refused by the CSRU, again citing federal regulations. In those two cases, the fathers were forced to give up custody of their children and place them in foster care. I respectfully submit that those are the most absurd applications of public policy I have ever seen.

In other cases, court orders provide that fathers shall have the children in their care for extended periods of time, such as the entire summer, during which time child support shall abate. Mandatory withholding orders, however, come off a boiler plate. They do not include exceptions for periods of time when the children, by decree, are to be in the care of their fathers. Again, the law takes income AWAY from the children, rather than as intended.

There are many cases in which the fathers have custody of one or more children from the marriage while other children from the same family reside with the mother. In these cases, if the mother goes on AFDC, support and mandatory withholding orders are entered which benefit one child while penalizing two other children from the same family.

Further, there are a very large number of cases in which fathers have remarried and begun second families. (Many of these fathers are family-oriented and the break-up of the first marriage was against their wishes.) The children of the second marriage are adversely affected by a mandatory withholding order entered on behalf of the children of the first marriage. CSRU officers frequently reply that supporting the children of the first marriage comes first. That line of thought treats the children of the second marriage as though they are a deniable reality. Further, the second family is not eligible for public assistance because the father's full income is counted, before withholding of child support. However, in truth the second family may be living well below the poverty level. These consequences are inhumane and simply not acceptable. Enforcement of child support is an admirable goal, but not always the clean, neat business we might like it to be.

An entire additional catagory of problems surrounds reactions to the mandatory withholding order by the father's employer. While the law prohibits firing a father for being under a mandatory withholding order, I have at least two hundred (200) cases in my computer files in which, after a long work history for the same employer, the father was fired within a few days of being placed under a mandatory withholding order. The employers may give other excuses, but the truth of discrimination against fathers under mandatory withholding orders is obvious. Yet, none of the two hundred fathers I have tried to help reclaimed their jobs or successfully prosecuted civil claims against their former employers. Further, our court monitors around the state have been unable to find a single example in which a father terminated because of mandatory withholding successfully won reinstatement or civil damages from the employer.

The position of the small business is understandable. Not only is it an additional paperwork burden, but the small employer is made liable, by law, for the part of the father's income which should be withheld for child support. For many small employers, hours and pay vary from week to week. There is always a danger of not withholding enough and being sued by the mother for the balance. Further, such orders place the employer between the father and the ex-wife. If there is a temporary lay-off or a work slow-down, the ex-wife is quick to call or come on the the employer's place of business loudly complaining that her child support check didn't arrive or was too small. In small town retail businesses, such scenes in front of customers can be fatal to the business. However, I have also seen cases in which image-conscious federal agencies have fired fathers for being under mandatory withholding orders.

In the MOST dramatic case, the father's employer called me to ask if I could get the mother and her attorney off his back: the attorney was threatening to garnish his business account because the attorney suspected that his client had not received all the child support from the father's employer to which she was entitled. This would have put the employer out of business almost immediately. After trying unsuccessfully to mediate with the ex-wife's attorney, I had to advise the employer that it appeared to me the only way to save his business was to terminate the father. The father was fired from his job.

In another case, a bankrupt farmer was ordered to pay $645 per month in child support. He lost everything he owned in the divorce and bankruptcy. He now lives on a farm which is owned by his mother, doing the farm work in lieu of rent on the farm house. CSRU decided that the farmer's 75-year-old mother is an employer, paying salary in the form of rent-free use of the farm house, and entered a mandatory withholding order against her. Now, the ex-wife and her attorney can garnish the grandmother's social security or force her to throw her son off the farm.

PRACTICAL OPTIONS TO PREVENT CHILD SUPPORT DELINQUENCY

A great deal could be accomplished by attacking the causes of child support delinquency instead of merely focusing on the result.

There are dozens of rational, sensible steps we could take to discourage divorce. A few minor legal changes, marriage enrichment classes, and subsidized marriage counseling for low income families - an investment of a tiny fraction of what we currently spend on welfare and support enforcement - could save ENORMOUS sums in future welfare and support enforcement, plus much of the costs resulting from the negative impact of divorce on children: educational deficiencies; juvenile crime; alcoholism and drug treatment; and teenage pregnancies.

Another positive step: although I consider it irrational and wrongheaded, the truth of the matter is that many fathers stop paying child support when they are denied visitation rights with their children. This motive can be alleviated by encouraging states to adopt effective visitation enforcement laws, providing funds to publicize options which are available, and providing specialized lawyer referral. In our experience in the state of Iowa, this approach is the most efficient. We do not oppose the recommendation of mediation contained in the access provisions of the welfare reform bills. However, the proposed demonstration projects are much too small. Mediation, which is suggested in the bills is a good idea, but is not the solution for all cases. A truly intransigent mother can not be forced to permit visitation unless mediation is backed up by effective visitation enforcement laws.

Current tax law acts as a disincentive for paying child support. The law denies fathers the tax deduction for the children EVEN IF he has been awarded that tax deduction by court order. (The IRS requires the additional step of obtaining a signed Form 8332, which, notwithstanding the court order, many mothers refuse to sign.) Further, fathers get no credit for paying child support even though it is often an involuntary transfer of income from one household to another.

Another option would be for congress to create an additional civil penalty for willful delinquency on child support, perhaps on a sliding scale or as a percentage of the delinquency accrued.

Further, in cases in which the mother is on AFDC, rather than raising the fixed dollar amount of support being passed through to the mother and children (before the rest is taken to off-set the AFDC payment), base the amount passed on to mothers and children on a formula (such as the first $25.00 and twenty-five percent of the payment in excess of $25.00). I know of cases under the current system in which social workers have recommended to fathers that they only pay the first $25.00 in child support through the clerk of court and pay the rest in cash under the table directly to the mother.

These recommendations would be positive steps toward attacking the CAUSES of child support delinquency. They would be far more constructive than penalizing the fathers who ARE current on child support by placing them under automatic mandatory withholding.

Respectfully submitted,

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Acting Chairman **Downey**. I want to thank the panel for its presentation. And Mr. Woods or Mr. Levy, I suppose these questions are for you, both of them.

Mr. Woods, you said at one point something very interesting, and you made a number of very useful recommendations.

You recommended reducing the withholding exemptions for fathers so that we could still trace them through the IRS.

Mr. **Woods**. Not just trace them, Mr. Chairman, but the fathers under Federal law are allowed to claim as many deductions as they think they will have coming due in the child support refund. By changing that rule so that they could only claim the actual number of people living full-time in their household, that would increase the amount withheld, and that money would then be available to the offset program.

Acting Chairman **Downey**. Well, distinguish for me that from the idea of mandatory withholding as being somehow less acceptable to you.

Mr. **Woods**. Oh, very easy. This is more acceptable. Well, for one thing, it helps a lot more. It is based on his entire income rather than the after-tax income. So I think that is helpful.

Second, I think the IRS offset program is probably run a lot better. We have certainly heard here that it is a lot more efficient. It goes after fathers who are self-employed.

I think it is generally a good idea.

Acting Chairman **Downey**. You wish to require, though, that we notify the employer that this particular employee can only deduct, claim, a certain number of exemptions. I mean, how would that be different from our saying, well, we are now going to withhold from this employee a certain amount of money?

It seems to me that the problem of stigmatization, if that is what we are concerned about, applies in both instances. Maybe it applies less in the case of prohibiting an employee from withholding less, but it seems to me that this is a fairly subtle distinction.

Mr. **Woods**. Well, maybe not so subtle. And here is why I would say that it is not so subtle a distinction. Everyone has to have taxes withheld, everyone——

Acting Chairman **Downey**. The other problem with the offset program is that it does not provide monthly payment to the mother.

Mr. **Woods**. That is true; granted, granted. But when a father is behind, I would favor the 30-day program.

Acting Chairman **Downey**. Neither of you deny the fact that there are enormous amounts of money out there that are not being collected and that we have a serious crisis with delinquent fathers, do you?

Mr. **Levy**. Right. But it is also with delinquent mothers, and I am not sure about the data——

Acting Chairman **Downey**. Well, let's talk about the delinquent mothers here for a minute.

Mr. **Levy**. Certainly. Geoffrey Grief, of the University of Maryland has done a published study. Although 90 percent of single parents are women, and women earn 70 percent of what men earn, only 1 percent of child support orders are issued against women.

And of that 1 percent, Geoffrey Grief finds only 14 percent of the women pay the child support.

This is not to criticize women. It is to suggest that this problem is not just a sex——

Acting Chairman DOWNEY. The law is not generic in this sense, gender-specific. I mean, if the mother is delinquent, she is responsible under the same law.

Mr. LEVY. Theoretically.

Acting Chairman DOWNEY. No, not theoretically—actually.

Mr. LEVY. No. There are so few support orders issued against women, it is really gender-biased. Women aren't ordered to pay child support. It is not considered decent to order them to pay.

Mr. WOODS. Mr. Chairman, if I could offer myself as a very specific example, I am a custodial father. My ex-wife is ordered to pay $60 a month child support. But when the court issued that order—almost 3 years after the divorce was final, I finally got an order—she became pregnant, quit her job, moved in with a boyfriend, and now receives AFDC. That was retaliation for the support order.

There is no way to collect that money from her.

Acting Chairman DOWNEY. Does the order still pertain to her?

Mr. WOODS. Yes.

Acting Chairman DOWNEY. And at some future point, if she earns income, she will have to be responsible for the arrearages and the payment.

Mr. WOODS. I hope so.

Ms. MURPHY. Mr. Downey, I have been monitoring the child support hearings in Fairfax County for the past year, and I have to admit that there is usually one mother a week that is brought in for nonsupport. And the judges there are very fair about looking at this and not making it a gender bias, and they have been incarcerated just as well as the father.

Acting Chairman DOWNEY. With all due respect, all of you have been here too late, and so have I. We could tell anecdotes, all day——

Mr. LEVY. But this is not an anecdote. The Census Bureau reports that 88 percent of money be paid under voluntary agreements—and that is about one-third of all divorces—is paid. Eighty-eight percent. That is one Census Bureau figure.

Acting Chairman DOWNEY. Well, we seem to have a lot of different figures.

Mr. LEVY. And where court-ordered support is ordered, 50 percent of fathers pay in full; another 25 percent pay in part. It is much higher than 15 percent. That is Census Bureau.

Acting Chairman DOWNEY. Let's focus on this idea that somehow, if we have mandatory wage withholding, which appears to be something that we are going to do, that this is inimical to the fathers who are not delinquent. I think we should be sensitive to the fathers out there who are scrupulously following the law. We don't want to hurt them or stigmatize them. That is a perfectly acceptable position to take.

Mr. LEVY. Thank you.

Acting Chairman DOWNEY. If mandatory wage withholding applies to everyone, how are they then discriminated against?

Mr. LEVY. Well, for one thing, from the children's standpoint, nobody can get a check faster to the custodial parent than the parents paying full and on time. The employer has to cut a check, send it to the State and the State cuts a check to the custodial mother and gets a fee from the Federal Government. This can cause incredible delays, mix-ups and extra expense for the taxpayer.

Acting Chairman DOWNEY. So your argument is that in the instance of the people who are paying, that mandatory withholding will slow the process down.

Mr. LEVY. It has got to.

Acting Chairman DOWNEY. By how much?

Mr. LEVY. I don't know how much, but it is not going to be the first of the month.

Acting Chairman DOWNEY. And should that be offset by the fact that we might be picking up some payments from people who might not ordinarily have made them, or made them on time?

Mr. LEVY. Well, one payment late, and they go into wage withholding under current law. We think that sends a powerful message: You had better not be late even once.

Acting Chairman DOWNEY. It doesn't seem to be sending a very powerful message.

Mr. LEVY. Well, the law is just going into effect now in the States; you are not giving them a chance. Williams is only starting to make a study now of how this is working. The law just went into effect. We have got to give it time.

Acting Chairman DOWNEY. Let me hear from Mr. Woods on this point.

Mr. WOODS. Thank you, Mr. Chairman.

I didn't originally make the stigma argument, and my concern would be that this strikes——

Acting Chairman DOWNEY. I would like you to repeat for me some of your concerns about nondelinquent fathers being somehow hurt by this.

Mr. WOODS. Okay. I would be happy to do that.

First off, I guess it is important to note that these fathers right now are treated as responsible individuals, not as someone who would be garnishing, or a criminally irresponsible debtor. So I think it does strike them as being a penalty against them, for no reason that anyone can point to.

I think it would be possible to write the law in such a way that you have automatic mandatory withholding at day one when a father falls delinquent. But if these fathers want to remain current, pay reliably, or be even paid ahead, that should be possible.

Ms. MURPHY. Mr. Downey, I have some concerns about just how effective this will be because it is going to take automation to do it. And personally, my own present husband was almost brought into this situation recently by the State of New York, and he is not only current, but he is always at least a week or two ahead. But their computer apparently is not set up to deal with the complexities of the issue. It is just really not set up to deal with it.

Mr. LEVY. And also, Mr. Downey, I appreciate these questions. We know you have a concern for children. We think there are better ways to handle all this that can improve parenting at the same time.

Prevention for legal and school problems for kids—the Michigan system has worked for 70 years without automatic, up front, at day one, payments through the Government.

Acting Chairman DOWNEY. I would feel a lot more comfortable about the Michigan system if they didn't appear last in the non-AFDC collections and last in the total State reported IV-D collection system.

Mr. LEVY. Am I getting wrong information? I thought from HHS that they were collecting $8.33 back for every dollar spent to collect.

Acting Chairman DOWNEY. This information supplied to us by Ms. Murphy, and these are data from the last 2 years, are indications of this. Maybe Michigan has an historically better record more recently——

Mr. LEVY. Is this in conflict with that $8.33 collected——

Acting Chairman DOWNEY. It is hard for me to believe that they are that efficient and losing money at the same time, but maybe they are.

Are there other——

Mr. LEVY. Ms Murphy's data is for changes in collections year to year. Naturally, Michigan is lowest in that category because Michigan is highest in over-all collections.

Mr. Downey, may I also ask that, if nothing else, the provision for access mediators, which is $5 billion, be increased? We cannot provide mediators for even one-fifth of the country for $5 million. We appreciate your putting in the $5 million at the request of our National Council, but if you would be receptive to more funds it would be one way to provide some balance in the bill.

Acting Chairman DOWNEY. We will take a look at it.

Mr. LEVY. That is another problem, the lack of balance for the two-household families.

Acting Chairman DOWNEY. I mentioned once on the floor of the House that if we ran a good marriage counseling service and a dating service, we would probably be a lot more effective in stemming welfare. Forty-four percent of the people going on welfare have to do with divorce and separation, and 33 percent of the women who leave welfare go off because they get married.

In lieu of marriage counseling and a dating service, we have a system of public assistance of the sort we are now wrestling with.

I am sensitive. Mr. Woods, your New York counterparts visited me, as I said to Mr. Donnelly, who I am sorry could not be here to hear the other side of this, but certainly we will make your testimony available to him so that he can appreciate that there are two sides to this story. I am very concerned about any parent, man or woman, who is acting in good faith and finding that, for reasons far beyond them, that they are now lumped into a category where they are somehow thought to be doing something wrong. I think that view is shared by many, not only in the subcommittee, but on the full committee—notwithstanding some of the statistics that Mr. Levy has suggested to us, which I have no doubt he is quoting accurately.

We have what I consider to be a serious problem here with child support enforcement.

Mr. WOODS. When you get them caught up on their child support, it is going to be easier for the members of my group to get visitation rights and joint custody.

Acting Chairman DOWNEY. Sure, absolutely. The other side of this is that I also do not want to get too overwhelmed by the fact that if we somehow collected all the money that was due that we are somehow eradicating the problem of poor children in this country, because that is nonsense, too. Many people look at child support enforcement as some magical answer to child poverty. This is absurd and not something that has crossed my mind.

This is something we should do better, and if we do it better, we will help some children, and we will help the taxpayer. But we have no illusions here about the size of the dilemma. It is very big. We are not likely to provide much in the way of marriage counseling or dating services from the National Government, because if you stop and think about it, maybe we should begin the marriage counseling before you get married, and we could have a Federal program that says this is a bad idea, and this is not the person for you. This is not likely to be something that we are going to get involved in here, although it might be a very good idea. And maybe that is because we are not the sort of sensitive, nurturing government that we should be; I don't know.

In any case, your testimony and your thoughts have not fallen on deaf ears; I don't want you to think that they are. I would like to talk about how much you are paying for air travel, Mr. Woods.

Mr. WOODS. It is not my air travel, it is my income. I only get $2,000 in income per year from my organization.

Acting Chairman DOWNEY. Well, then, I appreciate your taking the time and making the sacrifice to be here. You have contributed, believe me.

I thank the members of the panel.

[Whereupon, at 4:15 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

# Written Testimony
# Subcommittee on Public Assistance and Unemployment Compensation

## Committee On Ways And Means

## United States House of Representatives

**Wayne D. Doss, Government Liaison and Chairperson, Legislative Committee**
**California Family Support Council**

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On behalf of the California Family Support Council, I thank the Committee members for providing an opportunity to submit a statement for the printed record of its recent hearings on the Child Support Enforcement Program.

The California Family Support Council is an organization of child support professionals working to improve and extend methods for the establishment of paternity and the enforcement of family support obligations. Its members are drawn from all levels and all agencies of the Child Support Enforcement Program in California, including local District Attorney's Offices, the State Attorney General's Office and the State Department of Social Services. The Council has been instrumental in providing leadership, guidance and information at the federal and state level to those involved or concerned with the Title IV-D Program. Among the many topics raised by the Committee's hearings, several issues of vital concern to the California Family Support Council need to be addressed:

### 1. Funding

Successful continued implementation of the mandates of Title IV-D by both the state and local agencies in California is dependent upon continuation of the Federal Financial Participation (F.F.P.) levels set forth in the 1984 Child Support Enforcement Amendments. In addition, the Congress should give strong consideration to exempting the IV-D Program from Gramm-Rudman-Hollings budget reductions. The impact on local child support programs from F.F.P. reductions can be severe and is seen directly in decreased support collections and reduced efforts to establish paternity. This results in an increase in welfare dependence and its attendant costs together with a decline in revenues returned to the federal government and to the states. Local agencies tasked with responsibility for the IV-D Program require a predictable funding base not only to conduct business but to appropriately plan for improvements in staffing, service and equipment aimed at increasing collections, and improving cost-to-collection ratios.

## 2. OCSE Audit Requirements

The Office of Child Support Enforcement of the Family Support Administration has recently issued an Action Transmittal (OCSE AT 87-7) to all states which dramatically changes that agency's approach to auditing state program performance. The new audit requirements place an onerous burden on the state and most particularly on the counties to gather and submit case listings, data element information and even duplicate copies of district attorney case files, procedures manuals and reports to a central audit site.

Because California currently lacks a statewide automated system capable of gathering and producing required information, severe demands will be made on local staff to meet the new requirements. This is valuable time which will be diverted from collection efforts and which will result in increased costs, decreased collections and unrealized case potential. The California Family Support Council does not quarrel with the need or desirability for adequate monitoring of state program performance; however, the Council believes strongly that monitoring measures should not be designed in such a way as to detract from program performance.

At its annual meeting held in February 1988, the membership of the California Family Support Council unanimously adopted a resolution opposing the adoption of the audit requirements set forth in OCSE AT 87-7 and urging the Family Support Administration to reconsider its requirements.

## 3. State Statistical Reporting Requirements

OCSE has reduced the time for reporting quarterly financial and statistical figures (OCSE form 56) from 45 days following the end of the quarter to 10 days following the end of the quarter. Since California does not have a statewide automated system capable of gathering and generating the necessary data, most of this information must be gathered manually. The shortened time frame for reporting puts an onerous demand on local district attorney offices and detracts from the accuracy of the state report. The reduction in reporting time appears to have been made without a strong showing of need and ought to be reconsidered in light of realistic local requirements.

## 4. Program Automation

Automation is key to the continuing development and efficiency of California's Child Support Enforcement Program. Because California's program is state supervised but locally administered, and because California's counties are so diverse in size and demographics, it is critical that counties be given as much leeway as possible in developing automated systems that are suitable to the locality, make good business sense and are compatible with the automation requirements set out by the state to meet its reporting requirements and other demands for its Central Data Base.

## 5. Paternity Establishment

Establishing paternity for children is a worthwhile social goal and a prerequisite to obtaining child support in those cases in which parentage is disputed -- it is also the most costly administrative function performed under the Child Support Enforcement Program. Various proposals now under consideration at the national level would increase requirements on the states and local governments vis-a-vis paternity establishment thereby increasing administrative costs as well. If paternity establishment is to take a higher place among the priorities of state IV-D responsibilities, action must be taken to offset the higher administrative costs which will naturally and inevitably follow, especially since child support will not be a by-product of paternity establishment in many cases for many years (if ever). The administrative costs of paternity establishment should be removed from the federal incentive formula used to determine cost to collection ratios. In addition, realistic incentives should be allowed for establishing paternity in cases where child support will not be realized as an immediate return for efforts expended.

Attached for the members review and consideration is a copy of California Senate Joint Resolution 20 which was passed out of the California State Senate by unanimous vote and is currently pending before the California State Assembly. SJR 20 urges Congress and the President to eliminate the administrative costs of paternity establishment from the federal formula for determining cost to collection.

## 6. Social Security Numbers

Location of absent parents is a necessary and often time consuming task in the process of establishing paternity and enforcing support obligations. The single most useful piece of information to assist in the location of absent parents is the social security number. Inclusion of both parents' social security numbers on a child's birth certificate would be a significant boon to the IV-D agency's efforts to locate the father and/or mother of a child to secure paternity and/or support.

## 7. Retroactive Modification

42 U.S.C. Sec. 666 (9) (C) was enacted into law on October 21, 1986. That code section permits retroactivity of child support orders only to the date upon which an obligor was served with notice of proceedings seeking to establish a support obligation. Since 1971, California law has permitted retroactivity pursuant to Civil Code Section 4700, (a) to the date on which proceedings were filed to establish or modify a court order. The California Family Support Council believes that 42 U.S.C. Sec. 666 (9) (C) is potentially and unneccessarily injurous to custodial parents and children because it prohibits upward modification of child support at the earliest possible date.

Attached for the members review and consideration is a copy of California Senate Joint Resolution 27, which urges a repeal of 42 U.S.C. Sec. 666 (9) (C). SJR 27 was passed unanimously by the California State Senate and is currently pending before the California State Assembly.

# Senate Joint Resolution No. 20

Introduced by Senator Royce

June 4, 1987

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Senate Joint Resolution No. 20—Relative to paternity determination costs.

LEGISLATIVE COUNSEL'S DIGEST

SJR 20, as introduced, Royce. Paternity determination costs.

This measure memoralizes the President and Congress to eliminate the inclusion of administrative costs to establish paternity from the formula employed to determine a state's collection-to-cost ratio for the purposes of a specified federal law.

Fiscal committee: no.

WHEREAS, A unanimous and bipartisan Congress in 1984 passed, and the President signed, Public Law 98-378, otherwise known as the "Child Support Enforcement Amendments of 1984"; and

WHEREAS, The federal government provides incentives to states for child support collected based on collection-to-cost ratios; and

WHEREAS, There is a proposal before Congress that in fiscal year 1987-1988, in order for states to be eligible for federal incentives they must maintain a collection-to-cost ratio of at least $1.40 of collections to $1.00 of costs; and

WHEREAS, Title IV-D of the Social Security Act requires the State IV-D agency to establish paternity for a child born out of wedlock who is receiving public assistance; and

WHEREAS, Public Law 98-378 included the costs to determine paternity in the formula used to determine a state's collection-to-cost ratio for the purposes of that law;

and

WHEREAS, The establishment of paternity, in many cases, is difficult and time consuming, resulting in high administrative costs, and often does not immediately result in increased collections, causing the costs to establish paternity to be disproportionately higher than the collections resulting in a lower overall collection-to-cost ratio, and thereby penalizing states for pursuing difficult and time consuming paternity determinations; and

WHEREAS, The social and psychological benefits of the legal establishment of the parent-child relationship are equally as important as the economic benefits of paternity establishment; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California, respectfully memoralizes the President and the Congress of the United States to amend federal law to eliminate the inclusion of administrative costs to establish paternity from the formula used under Public Law 98-378 to determine a state's collection-to-cost ratio; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

# Senate Joint Resolution No. 27

**Introduced by Senator Watson**

August 20, 1987

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Senate Joint Resolution No. 27—Relative to child support.

LEGISLATIVE COUNSEL'S DIGEST

SJR 27, as introduced, Watson. Child support.

This measure would memorialize the President and the Congress to permit individual states to determine the appropriate date for retroactive modification or revocation of child support orders.

Fiscal committee: no.

WHEREAS, Since 1971, California has permitted orders for the modification or revocation of child support to be retroactive, pursuant to subdivision (a) of Section 4700 of the Civil Code, which states in part, "... to the date of the filing of the notice of motion or order to show cause therefor, or to any subsequent date."; and

WHEREAS, Since October 21, 1986, the federal law (42 U.S.C. Sec. 666(9) (C)) has permitted retroactivity only to the date of notice; and

WHEREAS, California, in order to continue to receive federal funding for its child support collection activities, is in the process of amending Section 4700 of the Civil Code to comply with this federal mandate; and

WHEREAS, Divorce is relegating thousands of children to a diminished standard of living and often even to a poverty-level existence; and

WHEREAS, Children residing with their mothers alone are almost five times as likely to be subsisting below the poverty level as are children in two-parent families; and

WHEREAS, Despite legislative efforts to combat the problem, competent data suggest that in California child support awards remain inadequate; and

WHEREAS, For example, the January-March 1986 Quarterly Report of the Child Support Management System, submitted to the Governor by the California Department of Social Services, shows that the average monthly child support payment collected by district attorney's offices to be $159.74 ($151.22 in AFDC cases and $167.69 in non-AFDC cases); and

WHEREAS, The California Legislature believes that 42 U.S.C. Section 666(9)(C) is potentially injurious to custodial parents and their children in that under its provisions they are prohibited from receiving upward modifications in child support at the earliest possible date; and

WHEREAS, The Legislature of the State of California is concerned that the federal statute will encourage some obligor parents to avoid process servers and thereby avoid increased child support payments; and

WHEREAS, This situation would be harmful not only to supported families but also to society as a whole, which must assume the burden of supporting children whose parents do not fulfill their obligations; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California memorializes the President and the Congress of the United States to permit the individual states to determine the appropriate date for retroactive modification or revocation of child support orders; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## Written Testimony
Subcommittee on Public Assistance and
Unemployment Compensation

Linda S. McMahon, Director
California State Department of Social Services

I would like to thank the Committee members for this opportunity to provide a statement for the printed record of the recent hearings on the Child Support Enforcement Program. Continued improvement in California's Child Support Program is dependent on Congressional and Federal Family Support Administration's (FSA) efforts to take the following positive steps:

### Continue Current Levels of FFP to Promote Program Stability

Federal Financial Participation (FFP) for the Child Support Enforcement Program should be exempt from Gramm-Rudman-Hollings reductions. Reductions to FFP in addition to those already provided in legislation threaten the local structure of the IV-D Program. Results of reduced FFP include; staffing reductions, layoffs, hiring freezes, reduction in levels of service which may in turn lead to increased welfare dependency, decreased collections and reduced return of State and Federal share of AFDC recovery money. We believe that it is far less expensive to exempt FFP from the Gramm-Rudman-Hollings provisions than it is to suffer the financial consequences of such a reduction.

### Establish Consistent Application of Federal System Automation Policies

California agrees with the Federal FSA position that automation is a critical part of an effective Child Support Enforcement program. However, California's automation efforts have been impeded due to lack of Federal approvals. California's plan for automation of the Child Support Enforcement program provides for automation on two levels. First, California Counties will automate at the local level, transferring in the most cost effective existing systems. Second, the State will develop a statewide Central Data Base (CDB) which will provide connectivity between all Counties and the State.

FSA continues to impose programmatic requirements on States which require automation in order to effectively implement. However, unless timely approvals for automation are received, California Counties will be unable to meet these requirements. Any further progress in California's automation efforts will require a more expeditious review, explanation of deficiencies or approval of automation requests from the FSA.

In addition, to encourage States' automation efforts, it is important that the 90 percent Federal reimbursement rate for developing an automated data system continue through October 1, 1995. The 90 percent funding rate should continue after that date only for changes in systems needed to comply with Federal systems certification requirements and revised Federal program requirements.

## Remove Burdensome Requirements and Develop Balanced Measures of State Performance

Federal requirements put an onerous burden on States that dramatically increase program costs, and yet there is a Federal emphasis on maintaining an effective collection-to-cost ratio in order to maximize funding. Examples of costly requirements include:

- Unnecessary Reporting Requirements

  Submission of the OCSE 56 Financial/Statistical Report was reduced from 45 days following the end of the quarter to within 10 days following the end of the quarter. This change was arbitrary and is impossible for California to meet with total accuracy. In California, locally collected data is not available at the State level until at least 20 to 30 days after the end of the quarter, and is for the most part collected manually. The prior time frame of 45 days was reasonable and reflected an understanding of State and local information exchange and program capabilities. The Federal Government is obviously concerned about the costs of operating the IV-D Program, but it is illogical to ask States to reduce expenditures while at the same time mandating the implementation of costly new procedures.

- Arbitrary Time Frames

  There are numerous examples of Federal requirements setting arbitrary time frames for action without regard to how the requirements may impact administrative costs. These requirements include, but are not limited to: 1) Time frames for conducting an expedited process; 2) Reporting time frames (10 days); 3) Date specified for the retroactive modification of arrearages (date of service rather than date of filing); and 4) Mandating short time frames for implementing new program requirements that impose automated system changes, and then requiring States to request permission to make the needed automated changes, thereby delaying implementation.

- Ambiguous Audit Requirements

  OCSE has issued an action transmittal announcing profound changes in its audit methodology for evaluating program performance. Changes include: 1) Requiring complete, statewide lists of various types of cases, in different status categories and for varying time frames, from which to select audit cases; and 2) Conducting the audit at a central location instead of on-site in the offices where the cases (and the staff who can explain their content) are located. Instead of targeting several (usually six) local agencies for audit and selecting cases randomly among them, OCSE will now be auditing records in virtually every California County.

  Currently, California is unable to meet these requirements. There is no statewide automated system in operation that is capable of producing the needed case listings. Implementation of these audit procedures will require California to: 1) Develop and implement manual and automated systems to produce the required case lists; and 2) Prepare and submit cases to the central audit location by creating duplicate case files and photocopying all related procedures, reports and records for each county agency to be audited.

The current Federal/State incentive system should be restructured to provide a broad performance-based incentive rather than evaluating performance based solely on the amount of a State's collections. Federal performance assessment is currently based on penalties for non-performance rather than rewarding success.

## Encourage States to Invest Resources in Developing New Initiatives

- Paternity Establishment

  The most significant barrier to States' efforts to increase the number of paternities established is the lack of positive Federal incentives for this important program activity. There have been numerous Federal proposals which are intended to increase performance in this area. However, they have been largely based on requiring States to meet arbitrary numeric standards and the imposition of fiscal sanctions for failure to meet those standards.

  The first step in addressing the high costs associated with establishing paternity is to remove the administrative costs associated with the establishments from the Federal incentive formula used to determine States' collection-to-cost ratio. This will encourage States to establish paternities even though there may not be an immediate return in terms of collections.

- Mandatory Income Withholding

  California's State law currently provides that income withholding is required in every new or modified case without the necessity of there being an arrearage involved unless the obligor-parent can demonstrate good cause, such as a satisfactory payment history. California supports expanding this requirement to all States.

- Mandatory State Guidelines

  States should be required to establish guidelines which are required to be used when determining child support awards. These guidelines should be used as a rebuttable presumption of the absent parent's ability to pay a minimum child support award. California currently has such guidelines established in State law.

- IV-A/IV-D Interface

  California shares OCSE's concerns with the timeliness of referrals and the adequacy of information obtained by welfare for referral purposes. We support Federal efforts to improve the IV-A/IV-D interface by operating pilot and demonstration projects, automated information exchange between the two programs and staff training.

- Social Security Numbers

  The first step to increase collections or enforce an order is to locate the responsible parent and identify available income. The single most important factor in accomplishing this is through the parent's social security number. The parents' numbers should be included on the child's birth certificate.

- Educational Program

  It is of the utmost importance that we educate our young people regarding the personal and financial responsibilities associated with becoming a parent. Nationally, there are one million teenage pregnancies per year. Eighty percent of female school dropouts are pregnant and sixty percent of women on welfare had their first child as a teenager. In California, 50,000 babies are born each year to unwed teenage parents.

It is not difficult to see that nonpayment of child support is a major nationwide issue. As such, Congress should provide the authority and guidance for developing an ongoing, mandatory program to educate our young people regarding their responsibilities as parents.

- Expansion of Existing Systems

There are numerous methods currently permitted under the Federal law which can be used to increase collections and enforcement techniques. The limiting factors are private sector resistance to putting State laws in place which will permit new activities such as automatic credit reporting, car registration and driver's license "intercepts" and the up front administrative costs associated with developing or expanding a system when such costs will be included for Federal incentive purposes in States' collection-to-cost ratios for the period of time prior to realizing the corresponding collections increases. States can be encouraged to develop new systems using the authority currently provided if the costs associated with development and testing new systems are removed from the[illegible] collection-to-cost ratios.

In summation I would like to emphasize that we support the use of positive incentives to achieve program improvements rather than the imposition of additional administrative requirements. If States' must divert staff from program activities to comply with administrative requirements it will not result in the increased collections and the program improvements which we are all committed to achieving.

## STATEMENT OF KEITH M. CLEMENS, ESQ., PARTNER IN CENTER FOR ENFORCEMENT OF FAMILY SUPPORT, A PRIVATE LAW FIRM IN LOS ANGELES, CALIFORNIA, DEVOTED TO THE COLLECTION OF PAST-DUE CHILD AND SPOUSAL SUPPORT.

CENTER FOR ENFORCEMENT OF FAMILY SUPPORT
6404 Wilshire Blvd., Suite 500
Los Angeles, CA 90048
(213) 653-6550

SUBJECT: THE NEED FOR FEDERAL MINIMUM STANDARDS ON STATE STATUTE OF LIMITATIONS ON ENFORCEMENT OF SUPPORT JUDGMENTS.

The legal system should not provide even inadvertent incentives for a support obligor to avoid paying support. Many state statutes of limitations in effect offer such incentives. "If I can avoid paying for a specified number of years, the statute of limitations on enforcing support orders makes me free, and the obligee can't collect what I owe!" The Center for Enforcement of Family Support addresses this problem here.

Since a large portion of support obligors fail to pay all or any of their child or spousal support, support arrearages grow nationwide at the rate of an estimated 3 to 4 billion dollars annually. This money can make a very significant difference in the lives of supported spouses and dependent children. Effective collection of support arrearages can also reduce the burden of Aid to Families with Dependent Children on taxpayers and shift more of that burden to absent parents who are legally and morally responsible for the support of their children.

The Center for Enforcement of Family Support is a private law firm dedicated exclusively to the collection of past-due child and spousal support. The Center offers for consideration a proposal to require either uniformity or at least minimum standards in state statutes of limitations on enforcement of support orders.

The statute of limitations problem arises because many support orders go unenforced for years. In some cases, the support obligee simply makes no effort to enforce the order. The reasons can include ignorance of what to do, fear of retaliation by the support obligor against the obligee or their children, or lack of resources to take enforcement action. In other cases the reason is that the obligee does not know where the delinquent support obligor is, or because the delinquent support obligor has no visible assets or earnings which could be seized by legal process.

In many cases, knowledge which can be used to collect support arrearages comes too late: all states have statutes of limitations on enforcing judgments and support orders, and in many cases, the limitations period expires before effective enforcement can occur.

In some states the limitation period is as short as 5 years; in other states it is 20 years. The rules on whether a support judgment can be renewed vary from state to state. So do rules on whether the statute is tolled while the obligor lives outside of that state or for other reasons.

As noted earlier, support obligors should not be given any incentive to avoid paying court-ordered support. If an obligor believes that if he can avoid enforcement for a finite period of time, he has a goal and incentive to avoid paying.

However, the Center does not propose that all statutes of limitations on enforcement of support orders be abolished. Instead, the Center believes that states should be strongly encouraged (with the loss of federal funds as a consequence of not complying) to modify their statutes of limitations to satisfy a specific minimum standard.

The Center proposes that the standard be similar to the new statute of limitations on enforcing child support arrearages in California, which is set forth in California Civil Code Section 4383, effective January 1, 1988.

The new California standard, which should become the federal minimum for all states, allows enforcement of all unpaid installments of child support, no matter how many years since the installment first became payable, until 5 years after the child reaches the age of majority. Thereafter, an obligee can enforce any installment of child support which is not more than 10 years past due on the date that the obligee applies for a writ of execution.[1]

Another feature that should be considered for inclusion into a federal minimum requirement for a state's statute of limitions is the provision for repeated renewal of judgments for support, with the state's regular statute of limitations on enforcement of judgments to begin running again from the date that the judgment is renewed. The renewal of the judgment should include accrued interest at the rate no less than the rate specified by the state for other money judgments.

Thank you for your consideration of our comments.

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[1] To illustrate: Assume that the age of majority is age 18. Assume that parents are divorced in 1973, when their children are ages 6 and 11. Assume further that one parent is ordered to pay child support at the rate of $100 per month for each child. Finally, assume that the support obligor never pays a dime. (Unfortunately, this is too often what actually happens.)

If in 1988 the support obligee acts to collect the support arrearages by execution, the proposed statute of limitation would permit enforcement of all installments of support for the child who was age 6 at the time of the divorce, but would permit enforcement of only two years' of support for the older child.

The reason is that the younger child is still within 5 years of the age of majority. The older child is beyond that limit, and the proposed statute permits enforcement only of installments of support which came due since 1978. Since the older child reached majority in 1980, and support for that child terminated, only the support which became payable from 1978 through 1980 can be enforced.

Memorandum

TO: Senate Subcommittee

FROM: C.A.S.S.E., Child and Spousal Support Enforcement

322 1/2 N. Curson Avenue Los Angeles, CA 90026

(213) 937-5294

RE: Written Statement for the printed record of the hearing

We respectfully submit the following written statement for the record. The outlined issues will be discussed and conclusions drawn, with recommendations for areas of investigation and future legislation.

ISSUES:

1. comments on the 1984 Amendments
2. Interstate CS enforcement
3. Improving collection/enforcement
4. Proposed National legislation: Verified SS # on all Marriage Certificates, Birth Certificates and Divorce Judgments
5. Credit reporting of Judgment of Arrearages
6. Complicity by family and friends who hide or help hide the obligor
7. State statutes of limitations: Constitutionality
8. Discovey training for state agency employees
9. Methods of automatic support payments thru suggested arenas

## 10. The future of child support enforcement

The opening comments will address the 1984 Amendment and specific sections therein. Followed by noted areas of concern and recommendations.

As was found in 1984 in SEC. 23, we are in agreement with the Congressional findings that the divorce rate in the United States has reached an alarming proportion and that that proportional increase has not decreased in the period to date. There is still a critical lack of child support enforcement and must be addressed once again to find solutions to this national concern. By holding the current hearing, Congress has recognized the need to once again seek more effective methods to solve the problen of non-support.

As in the past, there are still the related domestic issues, such as visitation rights and child custody, which are more often than not intertwined with the child support problem and exacerbate the problem. The concept of dignified divorce must become a overall concept. Families must be allowed to heal from the rending of the union and at the same time provide for the children of that union.

State and local governments must re-focus on the vital issue of enforcement of support awards, child custody, and visitation rights. Sec. 23 addresses all individuals involved in the domestic relations process and instructs them to recognize the seriousness of these matters and the significant impact to the health and welfare of the Nation's children. These individuals were also instucted to assign these issues the highest priority.

Under Title IV-D of the Social Security Act, funds are authorized for the purpose of "enforcing the support obligations owed by the absent parent to their children and the spouse with whom the children are living, locating absent parents.." and making this enforcement available to all children, regardless of eligibility or receipt of subsidized aid from the states. As of the 1984 Amendment, the states were required to have laws estblishing specified support enforcement procedures.

The difficulty, with this aspect of the Amendment, comes from the obvious lack of uniformity among the states and agencies. This lack of uniformity lends itself to comment on the aspects of interstate child support enforcement. With the advent of computer sophistication, it is not unrealistic to anticipate that the states will be able to communicate and enforce child support obligations more quickly than in the past. It would be appropriate for this aspect to be explored and considered for further legislation. The establishment of uniform reporting requirements, uniform data bases, uniform recognition of awards and enforcement would greatly enhance the effectiveness of State and Federal agencies in remedying the problem of non-payment of support.

The legislators have already recognized the significance of the automation of processing and managing of enforcement collection by the availability of 90% matching funds to states using automated systems in collections enforcement. Encouragement from the Federal level to the states, beyond the mere legislation availability, would improve not only interstate enforcement but contribute to the improvement of the collection and enforcement overall.

The commonality and uniformity of collection regulations, collection enforcement, and collection data-bases' and the linking of these systems from state to state would significantly reduce the degree of non-support in this country. While we recognize the rights of individual's to privacy, we recognize the greater right of the children of this Nation to a decent standard of living , and the enforcement of obligations to those children.

In order to adequately address the future of child support enforcement, consideration must be given to proposed changes that would enhance the likelihood of initial payment and collection of support that becomes delinquent.

CONSIDERATION:

1. National legislation that would provide for the appearance of the verified (by Social Security card) Social Security number of both parties on: Marriage Certificates
   Birth Certificates
   Divorce Judgments

One reason that enforcement is difficult is that the Custodial parent very rarely has a record of the absent parent's Social Security number. This makes locating the absent, non-supporting parent very difficult.

2. Credit reporting of delinquencies

As of the 1984 Amendment, no notice is given to credit reporting agencies of past-due support. If the credit agency requests the information, it will be provided under certain conditions. The automatic appearance of the past-due support, upon Judgment of Arrearage, may serve as a caution before non-payment occurs.

3. Ninety percent matching funds for automated management systems

As contained in the 1984 Amendment, there is provided ninety percent Federally matching funds available, on an open-ended entitlement basis, to states that elect to establish an automatic data processing and information retrieval system designed to assist management.

An extension of that funding would appropriately contain provisions for the training and hiring of additional staff to ensure the success of the enforcement actions. To merely provide lip service to the issue of non-payment of support by a data base with no personel to utilize it, is not enough. The expenditure of funding for improved staffing is essential to the programs success.

4. Uniformity of statute of limitations/ ie., elimination of statute of limitations

There is no continuity in the application of the statute of limitations in this country. The time period varies from state to state and at the very least, violates the rights of this nation's children by precluding justice for all. The statutes of limitations create the situation, in some cases, where non-supporting parents flee from state to state or stay hidden in a state with a short time period, for instance, a 5 year limit. By hiding in a state with a short statute, if found after that time, the child may never be able to collect any monies owed by the non-supporting parent. This is criminal and must not be allowed to continue.

### 5. Payment facilitation and collection notification

Due to funding limitations and staffing insufficiencies,it is obvious that an alternative system for facilitating the transfer of support funds from the absent parent to the Custodial parent must be adopted. It is suggested that the obligating parent be required to establish and maintain a savings acoount at the bank where the recipient parent banks.

The savings account should maintain, at all times, the amount of one month's support obligation. On an agreed upon day each month, the bank will automatically transfer the funds from the obligor's account to the obligee's account. While this does not actively require a state agency to monitor the transfer, the process can be efficiently set up to notify the obligee, her attorney or an agency of the Court to take immediate action upon failure of deposit.

In practice, this transfer can work smoothly and in itself, can aid in the mending of the rift that divorce creates. The relief from uncertainty that a mother faces monthly when she goes to her mailbox and crosses her fingers, hoping against hope that the check will be there will have a most positive effect on the children. There is no hiding the fear and anquish a mother faces when she can't feed her family or pay the rent. Neither she nor the children need face this dilemma each month.

6. Complicity of the family and friends who hide or will not divulge the location of a non-supporting parent

How often do we find that the family and friends of a delinquent parent will hide his location from the mother, the State agencies, the District Attorney? All too often. How can they not care for the rights of the grandchild, the niece or nephew who goes hungry, or lacks a decent home and the protection afforded by a two-parent household.

There should be liability for providing false information or refusing to assist in the efforts of governmental agencies to protect the rights of children through enforcing child support orders.

## CONCLUSION

The 1984 Amendment is a beginning. Just a beginning. This statement has addressed a few of the issues and offered a few suggestions.

1. Verified Social Security numbers on Marriage Certificates
   Birth Certificates
   Divorce Judgments

2. Credit reporting of Judgments of Arrearages

3. Elimination or uniformity of Statute of Limitations for the collectibility of support awards

4. An extrapolation of the 90% matching funds to states to include support staffs, fully trained, to use and monitor the collection efforts.

5. Alternative transferance of support payments through dual bank accounts, one for the obligor and one for the recipient. With a monthly transfer of specific funds on specific days, in addition to a specified balance and notification to the designated representative when the transfer is does not occur, the battle toward enforcement can be greatly reduced.

6. Consequences for complicity in the hiding of a delinquent parent by family and friends.

Our Nation's most valuable resource is its children. It is wiser to nurture and provide for the children of today, than to repair the men and women of tomorrow. It is our duty to protect our most precious resouce, the children of America.

Respectfully submitted for the record,

Suzanne Demyttenaere, Ph.D.
Founding Director
C.A.S.S.E.

SUBMITTED BY CHARLOTTE COATS, CHILDREN UNDER SHARED PARENTING

# MOTHERLODE

## CLIPBOARD

MOTHERLODE'S purpose is to offer support to parents going through custody, divorce, collection of payments, etc. Our support includes and is not limited to creation and support of new legislation, information on recent cases and relaying of information from other Motherlode members. Your input is appreciated.

NEWS NEWS NEWS NEWS

In my case, I had sole custody until 1983, then it went from sole to joint legal, physical to me, in 1984 joint physical same year joint legal primary physical to my ex and in 1985 sole custody to my ex. The appellate court reversed back to joint custody but the courts now refuse to enter a joint custody order. My lawyer says joint custody doesn't mean anything. I quite agree, it's merely a ploy to gain full custody of your children and to allow fathers to get out of paying child support.

I know of another mother who had sole custody from 1981 to 1983 when joint was awarded because the judge felt that "now he's ready to be a father." This later turned to split custody of the two children in 1985--the girl with the father and the boy with the mother. The father frequently denies the mother visitation and both children now see psychologists! This is California justice????

The National Law Journal ran an article which is well worth quoting: "... Joint custody arrangements, at first highly popular because they were thought to help children maintain meaningful relationships with both parents, since have come under attack as being too disruptive of children's lives. And, mediation, once hailed as a way of keeping some of the bitterness out of the divorce, has been criticized for failing to protect the less-knowledgeable spouses' interests. Article goes on to feel the legal ego with the added 'sensitivity' that lawyers have. I noticed one of the attorneys in Orange County were listed. Sensitivity is not their major attribute--money up front is.

PEOPLE AND PLACES

Women, Family and Work Coalition at 901H Street, No. 310, Sacramento, California 95814. (916) 961-1908. They accept bill ideas and information on legislation that will be introduced for the 1988 session. Their goal is reaching economic equity for the family. They also have workshops in the LA area.

There's also the Christian conciliation service of Los Angeles and Orange Counties. (818)906-9866. This is an alternative to the courts. (714)630-2622.

C.O.V.E.R. is Coalition of Victims Equal Rights. Doris Tate is the founder. Their address is 1251 W. Sepulveda Ste. 119, Torrance (213)534-1090, Ext. 47.

The Center for Enforcement is a L.A. law firm that specializes in collecting child support, arrears as well as regular payments. (213)653-6550. Sue Speir (SPUNK [213]598-9206, [714]771-5714) has a wealth of information on child support collection, etc. (213) 598-9206.

Woman-to-Woman is a resource center for women at (213)655-3807 or (818) 343-1775. They have limited hours like 10 to 1 on Thursdays.

Simon Greenleaf, School of Law in Anaheim has a Christian Civil Liberties Union (CCLU). (714) 998-2888.

OTHER STATES

Texas: The judges will not change custody from the mother, so the legislature passed a bill requiring jury trials in custody suits.

Minnesota: The Minnesota Supreme Court has ruled custody should remain with the primary caretaker.

Washington: Their joint custody bill takes effect 1/1/88.

CURRENT LEGISLATION

13--continues child support to unmarried child who is a full-time student until he graduates or reaches age 21. This is in the Assembly Judiciary Committee and will have an interim hearing.

1341--Assembly Jud. Committee--defers sale of family home if minor children involved. This is a two-year bill. Hearing set later this fall.

1209--This is in the Ways and Means Committee. It requires at least 30 hrs. per year of training for family law judges, mediators and others. This is a two-year bill that can't be heard until sometime this year.

1019--Assembly Jud. Comm.--I think this has something to do with paternity suits and retroactive child support.

215--Assembly Jud. Comm.--Child Support bill--support after age 18 for educational purposes, enforceable by either the child or parent.

The Assembly Judiciary chairman is Elihu Harris. He is an attorney and father's rights advocate. This Committee is considered the GRAVEYARD of child support bills. He was appointed by Willie Brown. Brown is the president pro tem of the assembly and appoints assemblyman to their positions. I also understand that State Assemblymen's salaries are immune from garnishment for child support purposes. They are also immune from Civil Cuit for decisions made in their official capacity. State judges are also immune from civil liability for their decisions and judicial conduct. Speaking of a tipped scale. . .

Speelman vs. Speelman, 152 Cal. Appl. 3rd 127: California's leading case on the custody issue. Key terms are: ". . .change of circumstances..." and "...frustration of visitation rights by the custodial parent is a proper ground for transfer of custody..." This is not being upheld by California judges merely due to another key term in this case: "... Changing custody is discretionary with trial judge."

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# New Estimates of Parental Expenditures on Children

by

Thomas J. Espenshade
February 1983

Final Report to the University of North Carolina, Chapel Hill, North Carolina, in accordance with Contract No. NO1-HD-92824 from the National Institute of Child Health and Human Development, U.S. Department of Health and Human Services.

Submitted by

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Washington, D.C. 20037

The opinions expressed in this report are those of the author and do not necessarily reflect the views of The Urban Institute or its sponsors, or those of the U.S. Department of Health and Human Services.

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# EXECUTIVE SUMMARY

## Introduction

Rearing children requires expenditures of both time and money. This study is concerned with the money expenditures parents make on their children, and it addresses three questions: (1) How much are parents likely to spend in rearing their children to age 18 or beyond? (2) How does this total vary according to the economic and demographic circumstances of families? and (3) Why are answers to these questions important? This summary provides an overview of our major findings.

Persons interested in knowing how much couples spend on their children sometimes ask, "How much does it cost to raise a child?" In our opinion this is the wrong question, not only because it invites answers that focus on some minimum level that is required for biological subsistence, but also because the question implies there is a single answer when in fact there is a range of answers. To make the latter point clear, suppose one were to ask, "What does it cost to own a car today?" One can readily see that the answer depends on what kind of car one owns — old model versus new model, the cost of car insurance, the car's repair record, gas mileage, and the like. Thus, to avoid possible confusion, we make a distinction between the concepts of cost and expenditure and emphasize that we are estimating parental expenditures on children, not the cost of raising them.

Why is this something one would want to know? Information on how much today's parents are spending in rearing their children has a number of practical uses. First, and most important, young couples who are contemplating having children need to have a better sense of the financial responsibilities they are likely to face as parents. Parenthood education is especially critical in today's economic environment when high interest rates may be forcing couples to make painful decisions between purchasing a home and starting a family, and when greater numbers of young people may feel that two incomes are necessary to support a suitable standard of living. In addition, those who are already parents need to be able to plan for the child-related expenses that await them down the road since children tend to become more expensive as they age. For example, parents may find that data on expected future expenditures on children are an important input to their personal financial planning in such areas as life insurance coverage and the appropriate level of savings.

Other areas where information on how much parents can expect to spend in rearing children has a practical application include the American legal system as well as matters of public policy. When couples with dependent children obtain a divorce, frequently the issue of child support (who pays how much to whom?) must be decided. Presumably, the level of child support agreed to by the partners or awarded by the court should bear some relation to how much was being spent on the child(ren) in the previously intact family. Second, attorneys are handling an increasing number of "wrongful birth" cases — cases, for example, where a couple did not want another child but had one due to the alleged negligence of a physician (e.g., failure to perform an abortion, vasectomy, tubal ligation). In such cases, couples have sought to sue their doctor for malpractice and have asked that the damages include a sum sufficient to rear that child from birth to age 18. Finally, states need to have guidelines on parental expenses on children when deciding on appropriate funding levels for foster parents. Trying to cope with federal cutbacks, states may attempt to pass these reductions along to parents of foster children.

## Summary

Our estimates of parental expenditures on children from the child's birth to age 18 exhibit substantial variation depending on the parents' socioeconomic status (SES), number of children, and wife's employment status. At the high end of the scale, per-child expenditures reach $135,700 (in 1981 prices) if couples from a high SES and in which the wife works full-time, full-year have just one child. At the other extreme, we estimate that low-SES families in which the wife does not work for pay and who have three children would commit an average of $58,300 per child in expenses to age 18. As a first approximation to the typical child in middle America, we may consider medium-SES families with two children and a part-time working wife. In such families, parents are likely to spend $82,400 to rear a child to age 18.

Of the three factors — parents' SES, wife's employment status, and the number of children per family — number of children has the greatest impact on expenditures per child. To illustrate, consider again the $82,400 in per-child expenditures in our prototypical middle-American family with two children, a medium SES, and a part-time working wife. Varying the number of children from one to three reduces per-child expenditures from $106,200 to $68,800, or by 35 percent. Varying the couple's SES from high to low reduces per-child expenditures from $98,300 to $75,000, or by 24 percent. Finally, comparing families where mothers work full-time to families where mothers do no market work reduces per-child expenditures from $94,100 to $76,400, or by 19 percent. Since expenditures per child are closely associated with children's (economic) welfare, parents may find that the most effective strategy for enhancing the material well-being of their children is to have smaller families.

Can a high SES and a full-time working mother offset the material disadvantages to children of growing up in a large family? Our results suggest that, within limits, the answer is yes. High-SES families with three children would spend $87,600 per child if the wife works full-time, and that total would be $89,500 in low-SES families with one child if the mother is not employed outside the home.

An examination of dollar expenditures on children does not by itself convey sufficient information about the economic responsibilities of parenthood because parents' ability to pay also varies. Perhaps a more instructive rule of thumb is obtained by examining the percentage of total family consumption that represents expenditure on the children. Our results show that this fraction varies remarkably little with a family's socioeconomic status but depends significantly on the number of children. Families with one child can expect to commit about 30 percent of total family expenditures to their child's consumption; in families with two children the proportion rises to between 40 and 45 percent; and in three-child families nearly 50 percent of total family spending is for the children.

For some families, the expenses associated with their children's college education may be the most significant outlay. Data from the College Entrance Examination Board show that, for the 1981-1982 academic year, annual expenses for higher education including tuition, room, and board ranged between $3,230 for a typical public two-year college and $6,885 for an average private four-year institution. Thus, when the cost of post-secondary education is figured in, our previous estimates could be increased by anywhere between $6,460 (two years at a public institution) and $27,540 (four years at a private college or university). If we assume that a child from middle America will attend a four-year public college or university (estimated cost equals $15,492), the total estimated expenditure from birth to college graduation approaches $100,000.

As children age they tend to become more expensive. If we divide the first 18 years of a child's life into three equal age groups, in general we find that approximately 26 percent of total child-related expenditures to age 18 arise at ages 0-5, and roughly equal amounts occur at ages 6-11 (36 percent) and 12-17 (38 percent). These age-group shares tend to vary with the birth order of the child in the family. Because the economies of scale associated with having more than one child are concentrated under age six, the second child's expenses in a two-child family are more heavily weighted toward the older years. When all 18 years are combined, we find that despite the existence of economies of scale in childrearing, they are not large; savings of 5 to 10 percent of expenditures on the previous child are usually associated with each additional child.

In addition to presenting results for the entire United States, our study examines black-white differences in child-related expenditure patterns, as well as differences associated both with residence in particular regions of the country and with living inside or outside large urban areas. We find, for instance, that white families generally spend more on their children than do comparable black families, although the differences are not striking. A white family at the medium-SES level with two children and a wife who works full-time spends an average of $93,850 per child from birth to age 18, compared to $91,000 per child in black families with similar characteristics. In general, more seems to be spent in rearing children in the northeast and west than in either the south or the north central census regions. And families living in metropolitan areas spend more on children than families in nonmetropolitan areas. For example, for families with two children, a medium-SES background, and a full-time working wife, per-child expenditures are estimated to be $98,700 inside standard metropolitan statistical areas (SMSAs) and $83,500 outside SMSAs.

We have disaggregated expenditures on children to age 18 into seven major categories of consumption including food, clothing, housing, transportation, recreation, medical care, and miscellaneous. Transportation (25.1

percent of the total), housing (24.1 percent), and food (22.5 percent) are typically the three most important budget items for children, and when these expenses are combined they comprise nearly three-fourths of the total.

Parents' childbearing plans may include decisions about the timing and spacing of children as well as the number. What help can our estimates provide to couples confronted with this full array of choices? First, our estimates show that expenditures on children appear to be relatively insensitive to the birth interval separating them. Even though lengthening the birth interval from one year to four years tends to increase expenditures per child, the increase is less than 5 percent. For example, in middle-American families, expenditures rise from $81,300 per child when one year separates the two children, to $84,750 per child when the birth interval is four years. Second, our previous estimates assumed that mothers are 25 years old when their first child is born. What difference would it make if we assumed them to be 22, 27, or 32 years old? Delayed childbearing increases expenditures on children, but the difference is noteworthy only for high-SES families. Expenditures per child by parents with a high-SES background are 9.3 percent larger when mothers begin childbearing at age 32 than if they begin at age 22 ($102,700 per child versus $94,000 per child). At the medium- and low-SES levels, expenditures rise by just 3.6 and 2.5 percent, respectively. Our overall conclusion here is that, for potential parents who are considering a variety of childbearing strategies, choices regarding the number of children will vastly outweigh the effects of timing and spacing insofar as parental expenditures per child are concerned.

Data from the U.S. Department of Agriculture (USDA) are often cited as a source of estimates of parental expenditures on children. Despite differences in data bases and in approach, the USDA's estimates are close to ours in terms of both the total estimated expenditure to age 18 and the age distribution of that total. We find the average American family spends $82,400 per child compared to the USDA's estimate of $80,400, and our numbers for the proportionate breakdown into the age groups 0-5, 6-11, and 12-17 are 26, 36, and 38 percent, respectively, versus 29, 33, and 38 percent from the USDA's figures. However, because of differences in data and in estimation procedures, the USDA shows housing to comprise over one-third (34 percent) of the total expenditure to age 18, and transportation just 15 percent. Moreover, we find sharp evidence that a family's living standard varies over the life cycle and is not constant as the USDA assumes. In two-child families, for example, living standards start to fall with the birth of the first child, reach a low point when the two children are age ten and eight, and then begin a slow but gradual rise until the children reach the end of their teenage years.

The estimates we have described above are all cast in 1981 prices. What can a family anticipate in terms of future expenditures if their first child is born in 1981 and if we factor future inflation into the estimates? Under the low-inflation scenario, which assumes an annual rate of inflation of 5.2 percent, expenditures to age 18 in our two-child middle-American family rise from $82,400 per child in constant 1981 dollars to $149,000 per child in projected future dollars. At the medium-inflation level (8.0 percent per annum), our estimate of future expenditures reaches $200,000 per child; and with the high-inflation scenario (9.3 percent per annum) the total climbs to $228,000 per child. Taking future anticipated college costs into account could boost expenditures associated with rearing a child from birth through the completion of four years of college to between $196,000 and $310,000, depending on the type of four-year institution and the assumption regarding future inflation.

March 15, 1988

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This testimony is to be written testimony concerning the hearings of February 25, 1988, regarding Paternity Establishment. I am writing as a private citizen and as a litigant in a paternity suit. Although, there are many aspect of my case which do not address the questions regarding the barriers, costs, and benefits of paternity establishment, that I will not address. My experience is a tragic example of how the current system is abused by fathers attempting to shirk their responsibilities to their children and place the burden of raising their children upon society.

In my case, I met the burden of proof that California state law requires for establishing paternity: Blood tests were performed at two independant laboratories and produced the exact same results of a paternity probability of 99.996%; and there was an admission of intercourse between the perported father and myself. However, this man contested his paternity, and requested a jury trial, which a jury determined that he should not pay support to me, and that the HLA, extended antigen, MNM ABO Kell-Duffy-Kidd are not reliable. This jury did not understqand the law that there was a Rebuttable Presumption and that the father had to proof that he is not the father of this child in order to win. Juries look at emotional issues of these type of law suits, and they view their decision as guilty or not guilty, or they believed that this was a criminal trial whereby I had to proof beyond a shadow of a doubt that this man fathered my son.

Because California jurists have determined that a defendant in a paternity litigation has a right to trial they ignore the child's right to support by both parents. My case had been dragged through the courts for five years. Every attempt to negotiate a proper settlement was waned by the father, and it was his intention to money me out. Even after contesting paternity, a last ditch effort was made by him to discourage me and force me out of the litigation by filing a custody action.

The final result is that my son and I are force onto the wellfare roles. I was working in a profession and for the same employer for approximately seventeen years. This job is no longer available to me becasue this man was my supervisor, and my employer had no safeguards against sexual harassment. In otherwords, I was not involved with this man as a matter of choice but rather by a requirement of my job. With this as a bit of history, I will now answer the questions which were posed for this committee.

## Barriers to Paterntiy Establishment

Time - In California perported fathers are allowed to use all legal loopholes to prolong their having to pay child support. Some hide until the child is almost 18 years of age or after. Some request trials and then change attorneys, as in my case, one week preceding the trial date. The reason is that they are hoping to "break-down" the mother, hoping that the witnesses who could produce evidence that there was a relationship between the mother and father will drop off or die, that the child will meet with a fatal disease or accident. Also, by prolonging the paternity trial, the defense can lead the jury to belive that the mother only recently has decided to persue the matter, or that the reason the mother has waited is because she really does not know who has fathered her child. And lastly, they are hoping that the mother will forget things regarding their relationship enabling the defense attorney to confuse the facts presented to the jury.

## Barriers to Paternity Establishment (cont.)

Financial - Most women cannot afford to pursue the issue of Paternity due to the financial commitment, whereby most men are still empowered financially to defend themselves and prevent their paternity being founded. In the County of Los Angeles, women are denied representation by the District Attorney, unless she and her child are receiving public assistance. I personally went twice to the District Attorney's office just prior to my son's birth and immediately after his birth. There was a third time when I began to be "moneyed-out", and all three times I was told that because I was working that they considered me capable of financing my own law suit.

At the time I started the actual proceedings, it had taken me three years to save seend money for this project and I was earning $29,000 aprooxiamtely. This is compared to my son's father who was earning $54,000 apprx. in salary, plus he had a law practice on the side. My litigation has thusfar cost me $40,000+. Some of this money was savings, some I borrowed from credit unions, charge cards, family and friends. I depleated my deferred compensation and allowed my condo to be foreclosed upon.

On the other hand my son's father established a line-of-credit, borrowed against two or three properties he owns and spent $90,000 apprx. He is suing me for his legal expenditures, plus he has filed a retaliation suit for $300,000 against me.

Because I am appealing the verdict of the jury, and there was perjury committed by all defense witnesses, my expenditures are on-going. The defense attorney has stated to other attorneys that he hopes that they will not take my case. In otherwords he has lobbied against me with malicious lies. Although some attorneys have not listened to him, his attacks are driving up the cost for me to avoid welfare, and my financial ruin to comletion - indenturment of my and my son.

Jury Trial - Juries in several California cases have made decisions based not upon the evidence used to establish paternity, but based upon discriminatory factors: Sex, Age, Marital Status. A single mother does not have a chance if her child is under 18.
The fact that California allows jury trial in paternity matters is a discriminatory practice. Paternity is a family law matter and in California there is no other family law decision made by jury. This is an unequal application of the law, which should be unconstitutional.

In my litigation, as I have mentioned, the jury by their own declaration admitted to not understanding what Rebuttable Presumption implies. This same jury did not understand that the HLA and the extended blood tests are standardized and unbiased tests which are used to excluded a wrongly accused man of paternity. They made decisions that blood tests are not yet perfected. And they never considered the ramifications of the state's interest as well as their own in seeing that a high probability father who does not support his child, leaves that responsibility to the social systems, and public funding.

Litigation - Attorneys who participate in paternity establishment would not make money unless they seek to merky the waters and create hostility between the litigants. They harass mothers by calling them away from their employment and through five days or more of deposition - which courts allow - they feign negotiation attempts in order require additional payments to them. It would be a service to the minor children involved and protect their rights if attorneys in paternity matters had certain restrictions as to the allowed fees for their services. This is the case already in the workers compensation laws in California, It would serve the best interests of all involved to place ceilings in this area also. What is failed to be see that paternity establishment is usually dealing with a financial need of the mother to support an out-of wedlock child. The current systems in many states loose site of this fact.

The courts are also barriers, in that sometimes the commissioners or judges involved in these suits encourage the parties to continue their fighting. Only in states that have a specified percentage factor of the paternity probability, and a special magistrate who only looks at these particular matters does the court eliminate the barrier to paternity establishment. For example in Colorado a 97% or above paternity probability and the alleged father is found the father by the court. In Maryland a similar system has been installed and if the father wishes a trial or hearing to issues of his paternity he is given a six month time limit to prepare and present a case, not as in my case five years, and other cases whereby a total of twelve years or seventeen years of a case in order to have a paternity finding.

This will also eliminate the in-fighting and create further hostility between litigants. And in a jury trial there are always the gossips have their chance to revelate any lies they imagine. Again this was in my own case, eventhough I had witnesses who could provide rebuttal testimony, my attorney did not understand that juries do not see paternity issues as a matter of scientific evidence, but as a popularity contest. Since my side did not present friends as witnesses I must be lieing about who is the my child's father. The defendant had his girlfriends to testify. In other words the issues were clouded.

In the areas of Teenage parents as special problems, my testimony would only my presumptual. The same for providing social security numbers in the birth records. Although the second issue would be helpful to a post-partum mother needing to enroll her child to the welfare system. I will focus my testimony to the other areas that are addressed for testimony.

Costs and Benefits - the cost of establishing paternity in most states today far outweigh the benefits, unless there is no judicial discretion as to the award of costs to the mother who has used all of her resources to litigate paternity. The benefits could outweigh costs if each state adopted a policy similar to those states who have expedited paternity establishment as in the examples I have already given.

The purpose of establishing paternity is to allow a child to have a relationship with his/her father, and to have that father held financially responsible for the raising of that child. The current system of paternity establishment allows for the father to avoid his responsibility to this child. While realistically the law cannot force a man to love his own child, at least some of the basic needs for the child can be provided for. The current system allows for men to hide for 18 years, and establishing paternity for a child does not encourage a parent/child relationship, and not does provide the highest quality of lifestyle for the child during his/her formative years. The current system is counterproductive.

Even in the rare instances of a reverse paternity litigation, when a father is attempting to play an active role in the raising of his child the law allows for a mother who is resistant to having a bond form between her child and the father, the litigation is as frustrating and divisive to the purpose of esblishing paternity.

In my own case there was an attempt to just pay me my legal costs and not establish my son's paternity. In the first place this is unacceptable by law and makes me liable both to the state and to my child for not giving him his "day in court". Second, the purpose of my litigation was not to spend money for futile attempt at a "war", but to give my son an opportunity to know who is father is and give him a sense of security that he is a normal child, that he was conceived and given birth to as all children are (even those who are inseminated or from a surrogate mother still exist because there was a presence of a biological male and biological female.

Instead legal tactics became at issue, not the welfare or best interests of a minor child. I blame the law and courts for allowing a malingering man to abuse the system. One tactic was the verbal/emotional abuse of the child from his father because the father would call the child and say obscene things to him or threaten his life. The the new wife carried on the "campaign"; then there was legal tactics, that I would loose custody of my son because if this man were found the father then he does not think I am a fit mother or a positive influence upon his child. This is an interesting fact in that our son is already celebrating his eigth birthday and the issue of my fitness as a mother is mute, in that I have already established myself as a supporting and caring parent by virtue of my not avoiding my parental responsibilities, but in some courts this man could take away all of my rights. This is ludicrous in that a "deadbeat" dad who avoids paying child support or avoids forming parental bonds with his child, does not start on the same level as the mother who has been there since birth. In the reverse there have been mothers who placed their children in the care of the biological father from the child's birth, and then when they realized that they could be responsible for child support payments they come into the court with a petition of custody. Again any parent who has demonstrated their capabilities by providing the necessities of life starts with a major lead upon the "deadbeat jparent"

As I have said before, the longer litigation is allowed to keep the parties bond to the judicial system rather than a familial orientation, the more vicious and bitter the parties become. The solution would be for every state to adopt a standard expedient paternity establishment system and take up the lead of states who have already taken this route. The genetic testing has already been standardized if I were to go to laboratories across the nation I would receive the same results as to paternity probability.

My dilemna is more in that if a county loses a paternity suit then the district attorney's office does not usually pursue an appeal of the jury verdict. It is considered not cost effective, but I ask if it is cost effective for the mother and child to remain on welfare, and therefore teach the child that the can live in society and from society and not have to face normal work methods for support. Also, what is a child learning when they realize why they are "different" or having to depend upon society for food and clothing, etc. They are learning to cheat, lie and steal. They are learning that the system does not work if you stay within the boundaries. They learn the only way to get ahead or realize goals or success is by "ripping-off" anyone or everyone. My own son asks me why we are having to live in poverty or near poverty if he has a father who can provide for him. My son heard and saw the lie of the court/jury trial, and he questions why should he obey the law when his father, who is a police captain, did not. Does the law apply to only poor people and not rich?

If this committee has any power to enact federal legislation or give insentives to states to follow standardized guidelines, much the same way that the federal government has done in affirmative action, and labor laws, then there will be a slow but steady change throughout the states.

Otherwise this committee will continue to see women and children applying for more public assistance. The costs will rise and women will be encouraged not to ever reveal the identity of their children's father. A footnote should be added here: Many of the deadbeat dads whose out-of-wedlock children and their mothers are on the welfare rolls are fathers who do have the financial means to care for their children, but the allows them to waste their money power in punishing their children and empovering the mothers.

In closing I thank you for even considering this testimony, and emplore you to consider taking a leadership role in this area. I would also appreciate any reports which are drawn from testimonies offered to this committee. I would more appreciate to be informed as to any decisions or to what purpose our testimonies serve. Also, I would be willing to provide any additional information this committee may need to further explore this issue, my address is at the top of my testimony, and phone contact can be made at (818) 789-7676 or (818) 346-0272.

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MEMBERS OF THE WAYS AND MEANS SUBCOMMITTEE

GENTLEMEN:

I regret that I was unable to attend the Ways and Means Subcommittee hearing considering H.R. 2955. I do appreciate this opportunity to voice my opinion.

For several years, I have written to Senators, Congressmen, anyone who could possibly help me. Congressman Kanjorski, as a result of my correspondence, has initiated legislation to extend the I.R.S. INTERCEPT PROGRAM (in non-welfare cases) TO BE EFFECTIVE BEYOND THE 18th BIRTHDAY OF THE YOUNGEST CHILD. Mr. Kanjorski has introduced HOUSE BILL H.R. 2955 in the 100th Congress to correct this injustice and I am asking this subcommittee to give serious consideration to this bill and to the important part it plays in the lives of WORKING MOTHERS. Mothers who are raising their children with no assistance from any government agency as A.F.D.C. or Welfare. I feel that this is one loop-hole in the I.R.S. Intercept Program that should be corrected.

You have to be directly involved in a child support matter to realize the devistating hardships you incur trying to collect this COURT ORDERED money from the absent parent.

I applied for child support in Sept. 1983. My husband left us and refused to give me any support. I didn't receive a penny from him for forty weeks, although he was ordered by the court to pay 2/3's of the original amount, till the decision came down from argument court. For forty weeks I had to raise two children, feed, clothe and shelter them on my earnings of $110.00 a week. I applied for food coupons because I didn't have enough money to buy food. I was denied because as far as they were concerned, three people should be able to live on $110.00 a week. If it weren't for the surplus cheese program, I don't know what I would do. I borrowed a lot of money from my mother, just so I could buy an order for the week. I had money to pay the household expenses but none for the food order.

Finally on the forty-first week an attachment was put on Mr. Higdon's pay. By now, his arrearages were already $5,000.00 (five thousand dollars). For forty-one weeks, I received weekly child support payments, then he conveniently got fired. Again, I did not receive support checks from him and the medical coverage that he had on the children where he worked was terminated. I went to apply for a medical card for my children because I could not afford to get medical coverage on them. Again, I was refused because they thought I should be able to afford medical coverage on my weekly earnings of $110.00 a week. A few months later, when my husband refused to provide coverage for the children, I had no choice and I had to get coverage on my own. Another bill I could not afford.

Meanwhile, he fled to New Jersey and we didn't know his whereabouts. We had a contempt of court hearing (his lawyer finally handed over his address), Mr. Higdon failed to appear. Another contempt hearing was scheduled, and again he failed to appear. Therefore, a capious was issued for his arrest.

Meanwhile in N.J. we filed papers to have my court order enforced. By now 92 weeks had gone by. Mr. Higdon would send me what he thought I should have, when he thought I should have it. If it averages out to $25.00 a week, I was lucky. We're talking about a man who earns in excess of $22,000.00 a year.

In March of 1987, an attachment was put on his wages in N.J. My son turned 18 and Mr. Higdon asked that he be removed from the support order, which he was. Now he is paying for one child who will be 18 in July and will also be removed from the order.

As of Feb. 16, 1988 Mr. Higdon owes his children $9,400.00. My son is a full time college student and my daughter will also be a full time student in college in Sept. of this year. HOW WE CAN USE THIS MONEY NOW! My children had to do without a lot, due to their father's neglect of support payments. If the only way I can collect the arrearages he owes is through weekly checks after the children are 18, How long will it take to pay off the $9,400.00 he owes us?

In 1986 the I.R.S. Intercept received $936.00 from my husbands 1985 income tax return. In 1986 he reduced the amount of income tax that was taken out of his pay. I received only $36.00 from his 1986 return. This might not sound like much to you, but at the time it was God-sent to us.

I believe mothers on A.F.D.C. and Welfare can make use of the I.R.S. Intercept till all arrearages are paid off. I feel very strongly that mothers who support themselves and their children, should be given the same opportunity. The option of using the I.R.S. Intercept till all arrears are paid in full no matter how long it takes.

We don't get it for nothing, there is a $25.00charge for non-welfare cases. Please, don't discriminate against us, we are not asking for a hand-out. We're asking for another means of collecting arrearages from irresponsible parents who literally don't care whether their children live or die. This might sound harsh to you, but in my case, it's the truth.

Put yourself in our position, as single parents who earn maybe $9,000.00 to $12,000.00 a year. Then consider shelter costs, heat, electricity, insurance, education, all the necessities. We are living below poverty levels. We need help and you are the only way we could get it. Please pass House Bill H.R. 2955. Let us exercise the same options that mothers on A.F.D.C. and Welfare have.

I have written to many people, all of who have given me their support. Paula Brooks, Chairperson, Oklahoma Child Support Advisitory Committee, has written to Senator Daniel L. Boren of Oklahoma to request his support in connection with H.R. 2955. Kathryn A. Sturm, Director, Division of Child Support Enforcement, State of Colorado, has written to Senator William Armstrong encouraging his support of H.R. 2955 Mr. James Davis, Director, Luzerne County Domestic Relations, Wilkes-Barre, has also voiced his support of H.R. 2955. Mr. Casimir P. Zoka, Director, Domestic Relations of Lackawanna County, Scranton, Pa. has also given it his support. William N. Davison, Director of the Northampton County Domestic Relations Section, Easton, Pa. has also given H.R. 2955 his support and has written to Honorable Don Ritter, asking for his support of H.R. 2955. Mr. Davison is also the President of the Domestic Relations Association of Pa. with a membership throughout the 67 counties of Pa. totaling over 800 members who have assured Mr. Davison of their complete support. The directors of D.R.A.P. have agreed to write to their representatives in Congress to let them know they have unanimously agreed to back Representative Kanjorski's Bill.

When so many people who deal with child support matters every day of the year are in full support of H.R. 2955, it must be a useful tool in the collection process that should become law.

I'd like to thank Mr. Kanjorski for listening to my letters and believing in me, to a point that he introduced House Bill H.R. 2955. You were the only one who really listened.

Last, I'd like to comment on a bill, I believe Senator Daniel Patrick Moynihan of N.Y. is introducing which would authorize manditory wage attachment assignment for child support. I thought this was exercised in all states already. From personal experience, this bill would be a life-saver to all who depend on child support. As I mentioned before, the only support I ever received from Mr. Higdon was through a wage attachment and it is an excellent law which should be at the disposal of all child support enforcement officials as should H.R. 2955

THANK YOU FOR YOUR TIME AND ATTENTION AND HOPEFULLY FOR YOUR PASSAGE OF HOUSE BILL H.R. 2955.

Sincerely yours,

Lucette Higdon

# STATEMENT BY

# INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC.

# CONCERNING

# INTERSTATE CHILD SUPPORT ENFORCEMENT

MARCH 18, 1988

The Interstate Conference of Employment Security Agencies (ICESA), is the organization of state administrators of unemployment compensation laws and public employment services throughout the country. ICESA is grateful for this opportunity to address some administrative issues related to interstate cooperation between state unemployment compensation agencies and state child support enforcement agencies.

## BACKGROUND

Each state's unemployment compensation law must meet certain requirements of federal law. Among those requirements is a provision which prohibits the denial of unemployment benefits to an individual because he or she no longer resides in the state where wages to qualify for benefits were earned. In the early years of unemployment insurance, states voluntarily signed an agreement with ICESA, the "Interstate Benefit (IB) Payment Plan", under which each agrees to act as agent for other states to accept claims, using common forms and procedures, and to forward those claims to the state where the individual's wages were earned. The latter state makes all determinations regarding eligibility for benefits.

A copy of the Interstate Benefit Payment Plan is attached as information.

The Interstate Benefits Committee of ICESA is given responsibility under the IB Payment Plan to set procedures and prescribe forms. The Committee is allowed to have two technical advisors from the Department of Labor (DOL) to assist in the performance of its duties. The DOL advisors have traditionally maintained and distributed the Handbook for Interstate Claimstaking and distributed revisions to forms and procedures that have been approved by the Committee.

In the early 1980's efforts were begun to speed up the processing of interstate claims by using telecommunications/electronic mail rather than the Postal Service to send claims information from one state to another. This has been accomplished in large part. States send interstate claims information to one of three telecommunication hubs around the country; the hub then sorts and forwards information to the appropriate state. This electronic mail system has been dubbed "Internet". The Internet system itself contains no information but is simply a means of transferring information between states.

After this telecommunication linkage was in partial operation, some states wanted to crossmatch the social security numbers of individuals who owed overpayments of unemployment compensation (UC) benefits with the claims and wage record files of other states. This enabled states to locate some of these individuals and pursue repayment of the amounts owed. Currently, each state that wishes to participate in the crossmatch sends a tape of its requests to the telecommunications hub. The hub sorts the requests by state, makes a request tape for each participating state, and sends it to the designated state. After running the crossmatch, each state makes a response tape, sends it back to the hub which sorts responses back to the state that requested the match and sends a response tape back to each participating state. The crossmatch is run each calendar quarter; participation by individual states is voluntary.

## CURRENT RELATIONSHIP BETWEEN STATE UNEMPLOYMENT COMPENSATION AND CHILD SUPPORT ENFORCEMENT AGENCIES

Each state unemployment compensation agency will provide information contained in its files, on request and on a reimbursable basis, to the state child support enforcement agency or any local child support enforcement agency within the state. This information can help the child support enforcement agency to locate individuals who owe child support obligations by identifying their place of employment or, if they are receiving unemployment benefits, their address. The state agency administering the state unemployment compensation law is required to provide this information by Title III of the Social Security Act, and it is a usual practice on an intrastate basis. The question that has arisen is how to best provide this same information to child support enforcement agencies on an interstate basis.

## POLICY AND ADMINISTRATIVE CONSIDERATIONS

There are several policy issues to be addressed in order to find the best way to provide UC information for child support enforcement purposes. There is concern about protecting the privacy of UC records. Unemployment claim and wage information generally has privacy/confidentiality protections under state statutes similar to those that apply to IRS and Social Security records under federal law. State UC wage record files are the most current and complete set of records about the location, employment and earnings of individuals in this country. A compilation of these records would approximate a national data base of working men and women through out the country. The potential for abuse of this information if it is complied by one entity, and particularly if it is accessible at the federal level, is of serious concern. It should be noted that the Department of Labor, which has federal oversight responsibility for the UC program has no access to state UC data.

In addition to the policy issues related to privacy, there are some administrative considerations. In order for a state UC agency to provide wage and claim information for a purpose other than unemployment compensation, there should be an agreement between the state UC agency and the other party which specifies reimbursement for the costs of providing the information; the frequency and volume of requests; and providing assurance that the information will be used only for the purpose specified, e.g., child support enforcement.

## OPTIONS FOR INTERSTATE COOPERATION

The simplest method would seem to be for child support agencies to send interstate requests to each other. The state that receives the request could include the requests of other states with its own request for information to the unemployment compensation agency under its existing reimbursable agreement with the UC agency. Any other arrangement will require a new set of agreements between each state UC agency and the entity that requests the information.

Another option is for one state child support enforcement agency to compile interstate requests for all child support agencies, set up a reimbursable agreement with each state UC agency, sort the requests by state and send a request tape to each state UC agency. Responses would then also have to be sorted and returned to the requesting state or local child support agency. A similar option would be for the Federal Parent Locator Service to do the compiling, sorting and setting up of agreements for reimbursement with each state UC agency.

Still another option would be for the Federal Parent Locator Service to contract with a state unemployment compensation agency to act as its agent to enter cases into the Quarterly Crossmatch System. This would also require the agent state to enter into reimbursable agreements with each state to provide this information.

## CONCLUSION

ICESA has not endorsed any particular method for improving interstate cooperation between state UC and state or local child support enforcement agencies. The ICESA Board of Directors has expressed support for the development of an interstate cooperative arrangement that will provide safeguards for the confidentiality of UC records.

ATTACHMENT

## INTERSTATE BENEFIT PAYMENT PLAN

Effective May, 1938

### I. Purpose of Plan

This Plan shall operate as to those administrative state agencies adopting the Plan. The purpose of this Plan shall be to initiate and further a method for the payment of unemployment compensation benefits to those unemployed individuals who have earned uncharged wage credits or who have accumulated uncharged credit weeks under the unemployment compensation laws of one or more states (the administrative agencies of which have subscribed to this Plan), and who otherwise might be deprived of benefits because of their absence from a state (or states) in which their benefit credits had been accumulated.

To effectuate this purpose, the unemployment compensation administrative agencies (hereinafter referred to as state agencies) subscribing hereto shall act as agents for each other in a procedure contemplated by this Plan, to the end that no such individual shall be deprived of said benefit credits by reason of his absence from that state in which such credits were accumulated.

### II. Committee - Creation, Powers and Functions

A. To instrument this Plan there shall be a committee, the functions of which are as follows:

1. To encourage and assist cooperation between the state agencies subscribing to this Plan in furtherance of its purpose.

2. To issue rules, regulations, instructions, procedural forms and interpretative decisions relating to this Plan to be utilized by the state agencies.

3. To aid in adjusting differences between the state agencies.

4. To do any and all things necessary, consistent with purposes of this Plan, provided that nothing expressed or implied in this Plan shall be construed as affording the committee authority to exercise the powers of the several state agencies or of the Bureau of Employment Security (changed to Employment and Training Administration in December, 1975).

5. The committee shall consist of a representative from each region of the National Interstate Conference of Employment Security Agencies, appointed pursuant to its constitution.

Two technical advisors of the Bureau of Employment Security may assist the committee in the performance of its duties.

### III. State Agencies - Duties and Privileges

1. Each subscribing state agency shall cooperate with each other and with the committee.

2. Each subscribing state agency shall adopt and put into force and effect each rule, regulation, instruction, procedural form and interpretative decision relating to this Plan suggested by said committee except such as a state agency finds to be clearly inconsistent with the statutory provisions of its unemployment compensation law.

3. Each subscribing state agency shall, insofar as possible, accede to jurisdiction of the committee in adjusting differences between such state agencies.

4. Each subscribing state agency may call upon the committee for assistance in any matter relating to the purpose of this Plan.

5. Nothing in this Plan shall be constructed as a prohibition upon the state agencies in modification of such procedure as may be instituted by the committee and otherwise adopting such special arrangements as may appear desirable to further the purpose of this Plan as determined by the committee. The terms of all modifications and special arrangements shall be filed with the chairman of the committee prior to any action being taken thereon by any subscribing state agencies.

## IV. Plan - Commencement and Duration

A state agency may later subscribe to this Plan by filing a notice of acceptance with the chairman of the committee provided for in this Plan.

Two thirds of the state agencies subscribing to this Plan may amend any of its provisions.

Any subscribing state agency may cease to participate in this Plan by filing notice of its intention with the chairman of the committee created under this Plan. In such event, its participation shall cease at the expiration of six months from the date of filing such notice.

For the purpose of this Plan the term "state agency" shall include the District of Columbia.

## NOTICE OF ACCEPTANCE OF INTERSTATE BENEFIT PAYMENT PLAN

The ______________________________________________________, agency administering unemployment compensation in and for ___________________ hereby gives notice that it accepts the Interstate Benefit Payment Plan approved by the Interstate Conference of Unemployment Compensation Agencies on October 22, 1937.

Signed ____________________________________
(name of state administrative agency)

by ________________________________________,
(name) (title)
who is duly authorized to sign this
instrument on behalf of said agency.

Dated __________________

## WRITTEN TESTIMONY OF

**LUCY POTTER**
**STAFF ATTORNEY**
**LEGAL AID SOCIETY OF HARTFORD COUNTY, INC.**
**525 MAIN STREET**
**HARTFORD, CT 06103**

I am submitting this statement in lieu of oral testimony to raise several child support issues that have come to the attention of my office, the Legal Aid Society of Hartford County, Inc., in Hartford, Connecticut (LASH). LASH represents low income people in Hartford. We receive many inquiries about child support problems and have represented numerous clients in support proceedings. We have recently begun negotiating with the State about our concerns, including those raised below.

Child Support Enforcement has seen some improvements in Connecticut since 1984. The Child Support Magistrate system, in place since March, 1987, has been very efficient in establishing and enforcing child support orders. Child Support Guidelines were recently promulgated and while we have not yet had much experience with them, our impression thusfar is that orders are higher.

Implementation, however, is another story. The scenario described in Paula Robert's testimony before this Committee on February 25, pertains in Connecticut also. The child support enforcement caseworkers handle huge caseloads and therefore the system does not have the physical capability to fulfill Congress' directives. As a result there are delays of many months in the implementation of orders and in redirecting payment to families once they stop receiving AFDC. In addition, the method of accounting is very inadequate. Four separate state agencies are involved in implementation, compounding the delay and accountability problems. Although federal law and regulations are quite specific about the order in which payments should be credited (to current support, arrearage owed to the family, arrearage owed to the State, etc.) Connecticut's system lacks the capacity to credit payments as those regulations require.

The Office of Child Support Enforcement has identified such problems in their audits, but it does not appear that these are areas of priority concern. As their 1985 report states, the office recognizes "a need to shift the audit emphasis away from a process-oriented approach to a determination of program results and performance." "Results" are evaluated by the ratio of the cost of administering the program to the collections received.

The following is excerpted from OCSE's 1985 Audit of Connecticut's program:

> Payments to the Family
>
> | Action Required | Action Taken | Efficiency Rate | Efficiency Rate |
> |---|---|---|---|
> | 60 | 60 | 100% | 95 - 100% |
>
> We reviewed 60 cases in which payments were required to be made to the family. In all 60 cases the payments were made as required to

> the resident parent, legal guardian, or caretaker relative. Based on our sample results, we estimate that the "Payments to the Family" efficiency rate is between 95 and 100 percent.
>
> Although not affecting substantial compliance, we did find delays in payment processing. The State reported that $489,269 in refunds were processed at the IV-D central office for the year ending June 30, 1985. Refunds were made to the family for the payor, for a variety of reasons, including current support paid after AFDC discontinuance, credit balance remaining, overpayment of arrearage account, etc.
>
> Of the 60 cases reviewed, we found that 29 refunds were made within three months, 14 were made within three to six months, seven were made within six to 12 months, and 10 were not made within one year. State staff indicated that refunds were delayed because collection reports from BCS and AFDC discontinuance notices from the IV-A agency were late. OCSE Audit Report No. CT-84-PR. p. 20.

Note that in more than half of the 60 cases reviewed, families had to wait for more than three months for their child support, because of the State's delay in processing payment. Ten had to wait over one year. And yet OCSE finds the State's efficiency rate 95 to 100%! OCSE does not consider delay relevant to efficiency, but it certainly is relevant to families who must forego basic necessities during the months when no support is received. Surely states should be held to a higher standard as custodians of money which a court has ordered a parent to pay a child. To Connecticut's credit, the State is seeking to implement a computer system which it is hoped will address some of these problems.

Because of OCSE's emphasis on "efficiency", the program as implemented often subverts the very purpose of child support enforcement, that is--the needs of children. For example:

- A family going off of AFDC will typically receive no child support for three to six months or longer. In order to collect the back amount, a reimbursement request must be initiated, which takes eight to twelve weeks. As a result, women who choose to go off of AFDC do so at their children's peril, since they will be without any child support income for a substantial period of time.

- The State pursues "child support" from parents who are presently supporting the very children on whose behalf the State proceeds. For example, a mother who had left the children with a relative for some period, resumes custody or a formerly 'absent' father returns home. These children may have received AFDC at some time in the past and the State now proceeds against the working custodial parent for repayment of back AFDC. Obviously the money that goes into the state coffers as "child support" is money which could otherwise have gone to the current support of the children. These collections from working parents represent a guaranteed return to the State that boosts collections and thus boosts the overall "efficiency ratio". Of course, had the State been more vigilant in pursuit of the absent parent back when the children were receiving AFDC, the debt might never had accrued.

## Proposals

It may not be Congress' role to address the myriad imperfections in the child support systems of each state. Strengthening the federal requirements in certain ways, however, could bring improvement in the state systems. In addition to the specific recommendations below, I would urge this committee, as it reviews the effectiveness of the 1984 amendments, to continually ask, 'How does this help (or hurt) children and families?' As the committee makes future recommendations, I hope you will agree that programs which benefit the State at the expense of children are contrary to the purpose of child support enforcement.

1. The Office of Child Support Enforcement should penalize states which do not comply with the distribution requirements.

Although the federal law requires that states, in distributing the support payments received, pay families their current support first, and make such payments promptly, OCSE does not penalize states for noncompliance. While the state's failure is partly due to inadequate staffing, there are also elements of bureaucratic entrenchment and buck-passing among the various agencies responsible that might prove surprisingly surmountable with pressure from OCSE. "Efficiency" should be measured in terms of long range benefit to families, not merely in terms of money to the state and federal government.

2. Notice.

The federal Act should be changed to require monthly notice to the named beneficiaries of orders assigned to the State telling how much was collected, what period the payment covers, and exactly how the payment was allocated among current support and arrears. This would:

- force the States to implement accounting systems.
- enable the custodial parents to follow up with the employer or absent parent regarding delinquencies.
- comply with due process.

At least one court has ordered that such notice is constitutionally required. Bennet v. White, Order of October 2, 1987 (CV 79-1764, E.D. Pa.)

I also endorse the proposals recommended by Paula Roberts in her testimony. Thank you for considering these comments.

## STATEMENT OF

## THE NATIONAL TREASURY EMPLOYEES UNION

Thank you for giving the National Treasury Employees Union this opportunity to provide testimony about the impact of the formation of the Family Support Administration (FSA) on the Child Support Enforcement program. We represent the employees of the FSA including the Office of Child Support Enforcement (OCSE) both in Washington and in the Regional Offices. This small Federal agency with a little over 300 employees has a potential impact on our society far out of proportion to its size. If today's unfortunate statistics for divorce and births to unmarried women hold true, over half of all children will require the services of the 300 person OCSE.

The OCSE has been given a mandate by Congress to ensure that states are collecting court-ordered child support for both Aid to Families with Dependent Children (AFDC) families and non-AFDC families. It is supposed to be a single and separate entity dedicated to that purpose. The mandate is a difficult one at the outset, because states have a financial incentive to collect child support for AFDC families, and no such incentive exists for collection for non-AFDC recipients.

We believe that the management of OCSE as a part of the FSA has made the situation even more difficult. If not carefully monitored, this structure will defeat the purpose Congress intended for OCSE, because it is a risk of being subsumed by a larger agency whose orientation is strongly directed toward welfare programs. The situation is made worse by the fact that the Director of OCSE (also the Administrator of FSA), Mr. Wayne Stanton, has a background in state government and places a heavy emphasis on AFDC child support collections.

We would like to give you some background on this situation, and urge to closely examine OCSE to determine if it is fulfilling its Congressional mandate.

Soon after our certification as collective bargaining representative in November 1986, we began to receive disturbing reports from our members. Many of the complaints had to do with the merger of OCSE into the new FSA, which contains the much larger Office of Family Assistance (OFA) which administers the AFDC program. The new director of OCSE (also the Administrator of FSA), Mr. Wayne Stanton, was placing greater emphasis on AFDC collections, starting a major new initiative focusing on the "AFDC Interface." The emphasis was clearly on AFDC collections. Statutes and clear Congressional intent were being ignored or flagrantly violated. OCSE, which previously had been an independent agency, was being gutted. Critical functions such as budgeting, policy making, regulation writing and the review and approval of State ADP systems were completely stripped from OCSE or subjected to intensive and absolute review by a new layer of bureaucracy which was made up almost exclusively of staff from the much larger OFA program. Moreover, Mr. Stanton's track record on child support enforcement services for parents not on AFDC was well known prior to his appointment as Director of OCSE. From 1973 to 1981 he served as Director of Public Welfare for Indiana where he oversaw the State Child Support Enforcement program. During his administration, non-AFDC families were virtually ignored. In FY 1977 when OCSE was first in operation, Indiana collected nearly $8 million in AFDC child support but only $129,000 for non-AFDC families. In FY 1980, Mr. Stanton's last full year, Indiana collected $9.2 million in AFDC payments but only $1.2 million for non-AFDC families. In terms of caseload, the picture was the same. In FY 1980, Indiana had 107,000 AFDC cases but only 5,000 non-AFDC cases. Millions of dollars in child support could have and should have been collected but were not. Thousands of families, many with established court orders requiring payments, didnot receive a dime because of the failure of Mr. Stanton to carry out his duties. These families had to struggle by without child support or go onto welfare before the State would finally take their case.

In terms of Indiana's non-AFDC cost effectiveness indicators, Mr. Stanton's record is equally abysmal. During his best, year, FY 1980, Indiana collected only 31 cents in non-AFDC payments for every dollar in total administrative expenditures.

One immediate result of the formation of FSA was the unnecessary and costly move of the Office of Child Support Enforcement central office from its headquarters in Rockville, Maryland to its current temporary location in Washington, D.C. The move was to be carried out in two stages. First, OCSE was to be moved out of its Rockville space (the cost of which was to go up to $14 a square foot) to temporary space downtown which cost $20 a square foot. Then a few months later, OCSE was to move to its permanent location which was to cost between $24 and $34 a square foot.

The first stage of the move has already taken place. The second stage is being planned for May and June of this year. Relocating the staff is being done at great cost to the government. But even worse is the additional cost to the employees both in terms of commuting time and expense and reduced morale.

Ironically, in 1978, OCSE had been moved from downtown Washington to its Rockville location as part of a Federal effort to move employees out of expensive downtown office space to less expensive space in the suburbs, saving the government money, saving employees commuting time and expenses and benefiting the entire Washington area by reducing congestion and pollution.

The absorption of OCSE into FSA with the subsequent loss of staff and the move to Washington, D.C. has had an adverse impact on employees. As previously indicated, commuting time and expenses have increased and morale has dropped. Since July of 1985, 30 percent of the OCSE staff have left the organization. This does not include those who were taken from the program to staff the newly created positions in FSA. The result of this is that the Child Support Enforcement program itself has been significantly weakened by the loss of its single greatest resource -- the talented people that make the program work. In addition, those employees remaining have suffered a deepening loss of morale. Many still on board are absorbed in an ongoing search for jobs outside of OCSE. All of this works to the detriment of the Child Support Enforcement program as the program continues to experience a brain drain both to FSA and other agencies.

Convinced of the illegality of OCSE's reorganization, the stupidity of and wastefulness of the proposed move, and the clear Congressional intent that non-AFDC families receive equal services, we joined the National Coalition of Child Support Advocacy Council in a suit in Federal Court to stop both the reorganization and the move of OCSE.

Although our suit failed to stop the ill-conceived and wasteful move, it has prompted the Department to make a number of changes in its formal structures in order to bring OCSE more in line with Congressional intent. Revised regulations have been published returning to OCSE certain functions including the review and approval of State ADP systems. The Chief Counsel has sent Mr. Stanton a memorandum agreeing with many of our contentions and specifying that OCSE must remain as a separate agency. Staff has been informed that OCSE is supposed to be a single and separateagency which reports directly to Mr. Stanton and that FSA officials are not supposed to be overseeing its operations. In many instances, FSA continues to review OCSE matters but now they do it informally rather than formally. While these changes are encouraging, the informal practice of the agency does not always comport with the statutory requirement that child support be a separate program.

At this point we feel that our law suit has achieved much. It has made the Department make changes in regulations and written policy which meet much of the intent of Congress. But our suit cannot make FSA act in good faith on a day to day basis. It cannot prevent FSA from circumventing its own written policies.

In her testimony in 1983 before this subcommittee, former Secretary Margaret Heckler described the non-payment of child support in the United States as a national disgrace. Since that time there has been some progress. Congress passed some important new legislation and OCSE has shown a steady moderate increase in collections. On the other hand, according to the Current Population Survey of the Census Bureau, total child support payments made in the United States actually decreased between 1983 and 1985 after inflation was taken into account, falling from $7.2 billion in 1983 to $7.1 billion in 1985. This situation remains a national disgrace.

We urge the Subcommittee to give close scrutiny to this national disgrace which will effect over half the children in our nation. We urge you to examine such key issues as the single and separate status of OCSE, the adequacy of its funding, staffing and organizational structure and its mandate to provide leadership in the area of child support enforcement.

Congress must determine if OCSE is to be a small, understaffed, underfunded office with high turnover and low morale that is merely an adjunct to our welfare program or if OCSE will be a dynamic organization truly committed to insuring that every child, whether on welfare or not, gets the child support that has been ordered by the courts.

We thank you for this opportunity to provide this testimony.

## TESTIMONY OF

## NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

New York City's Human Resources Administration (HRA), the agency responsible for the City's public assistance programs as well as its Child Support Enforcement Program would like to thank you for the opportunity to submit testimony to your Committee regarding our views on the current status of the Child Support Enforcement Program and our recommendations for the future.

HRA has made significant progress in its Child Support Program. Collections on behalf of public assistance families are at a level three times that of 1981, with a 24 percent increase last year alone. This year we expect to increase collections for non-public assistance families by 33 percent. Altogether we expect to collect $88 million in child support on behalf of New York City families, up from $70 million last year, and $58 million the year before.

In addition to numerous operational improvements, including major automation, the primary reasons for our progress have been gaining access to the New York State Wage Reporting System, the tax refund offset program and income deduction legislation. In fact, the largest part of our recent collection growth can be attributed to the ability we now have to implement income deductions through an administrative process and to the automated systems that we have developed to take full advantage of this ability.

We are confident that we will continue to achieve collection growth. Currently we have key initiatives underway which focus on obtaining more information from the custodial parent as well as conducting a more thorough and timely absent parent location investigation. We have also initiated an innovative program to provide low cost legal services to non-public assistance clients through law school clinics. Through efforts such as these, we expect to increase collections by approximately 10 percent annually.

However, as in the past, to achieve truly significant program growth, legislative changes are required. We strongly support several key child support provisions currently under debate in Congress since they have the potential to be of great benefit to the New York City program.

## Mandatory Support Guidelines

We estimate that mandatory support guidelines as required by H.R. 3644 with a specific support formula such as that under consideration currently in the New York State legislature, would raise support obligations by more than 50 percent over current levels, with a corresponding increase in collections as cases become adjudicated under mandatory guidelines. Moreover, this legislation will make it clear that both parents have a basic and ongoing responsibility to provide whatever support they can whenever they bring a child into the world.

Of the approximately 8.8 million women in the United States with children under the age of 21 whose fathers are not living at home, only 2.1 million receive full child support payments. And, although the cost of living has gone up, the amount of payments is going down. The Census Bureau reports that the average child support payment for women trying to raise children on their own dropped 12.4 percent between 1983 and 1985. Consequently, more and more children have come to live in homes that are slipping below the poverty level.

We believe that the enactment of mandatory support guidelines will help us to reverse this disturbing trend. The current State set formula for calculating support awards is not mandatory and is ignored by the courts -- at least that is our experience in New York City. As a result, there is a wide variance in the amounts of support orders received by families with similar financial situations. We believe that an optional formula has been ineffective and a mandatory one based upon a meaningful objective standard is essential.

This belief is supported by statistics and studies, which document the need for a mandatory support formula. We feel that this is the single most important way to strengthen the child support enforcement program and help families receive the support to which they are entitled.

Our more specific problems with the current system, which could be alleviated by a mandatory support formula, are as follows.

FIRST, SUPPORT AMOUNTS CURRENTLY BEING AWARDED ARE, IN TOO MANY INSTANCES, FAR BELOW WHAT WOULD BE AWARDED IF AN OBJECTIVE STANDARD, BASED UPON WHAT PARENTS ACUTALLY SPEND ON RAISING CHILDREN, WERE USED. FOR EXAMPLE, A NEW SUPPORT ORDER PAYABLE THROUGH OUR NEW YORK CITY SUPPORT COLLECTION UNIT FOR A NON-PA FAMILY AVERAGES UNDER $230 PER MONTH, OR $2,750 A YEAR, WHICH ALSO INCLUDES SPOUSAL SUPPORT. THIS IS APPROXIMATELY LESS THAN HALF OF WHAT STUDIES SHOW IS EXPENDED ($5,367) ON ONE CHILD BY LOW INCOME FAMILIES. WHEN THE FAMILIES ARE ON PUBLIC ASSISTANCE, THE SITUATION IS EVEN WORSE. ON AVERAGE, A CHILD IN A PA FAMILY IN NEW YORK CITY CAN EXPECT TO BE AWARDED SUPPORT TOTALING APPROXIMATELY $900 PER YEAR.

CHILD SUPPORT AWARDS ARE HISTORICALLY LOW UNDER THE CURRENT SYSTEM FOR SEVERAL REASONS. FIRST, COURT HEARINGS IN SUPPORT CASES TEND TO FOCUS ON THE CURRENT EXPENDITURES OF THE NON-CUSTODIAL PARENT, NOT GROSS INCOME. THESE SPENDING PRACTICES ARE OFTEN CONFUSED WITH TRUE NEEDS, AND TOO LITTLE REGARD IS GIVEN TO THE NECESSITY FOR THE RESTRUCTURING OF NON-CUSTODIAL PARENTS' SPENDING PRIORITIES. HOWEVER, A FORMULA BASED UPON GROSS INCOME WOULD CORRECT THIS DEFICIENCY AND ENSURE THAT CHILDREN'S BASIC NEEDS DO NOT GO UNMET.

FOR EXAMPLE, IF WE WERE TO USE THE FORMULA CURRENTLY UNDER CONSIDERATION IN NEW YORK STATE, WE ESTIMATE THAT AN AVERAGE INCOME OF $14,000 WOULD LEAD TO AWARDS OF NEARLY DOUBLE PRESENT AMOUNTS OF $140 PER MONTH FOR PUBLIC ASSISTANCE FAMILIES. WHILE GOVERNMENT WOULD INITIALLY BENEFIT FROM THIS INCREASE SINCE PUBLIC ASSISTANCE FAMILIES ARE ONLY PERMITTED TO KEEP $50 PER MONTH OF THE SUPPORT AWARD, IT SHOULD BE REMEMBERED THAT MANY FAMILIES EVENTUALLY LEAVE WELFARE BEHIND AND THEN RECEIVE THE ENTIRE AWARD. AT PRESENT, 30 PERCENT OF OUR NON-PA CASES WITH SUPPORT ORDERS WERE PREVIOUSLY ON PUBLIC ASSISTANCE.

SECOND, WE HAVE OBSERVED A PATTERN OF DISCRIMINATION, WHICH MAY VERY WELL BE UNCONSCIOUS, BEING PRACTICED AGAINST CHILDREN IN RECEIPT OF PUBLIC ASSISTANCE OR BORN OUT-OF-WEDLOCK. WE BELIEVE THAT SUCH DISCRIMINATION REFLECTS ITSELF IN SUPPORT AWARDS BEING LOWER FOR THESE GROUPS EVEN WHEN THE FINANCIAL SITUATIONS OF THE ABSENT PARENT ARE QUITE SIMILAR. WE BELIEVE THAT THE USE OF AN EFFECTIVE OBJECTIVE STANDARD BASED UPON WHAT IS ACTUALLY EXPENDED ON CHILDREN AND THAT UTILIZES GROSS INCOME WILL PREVENT THIS DISCRIMINATION AGAINST SUCH CHILDREN.

FINALLY, A REQUIRED SUPPORT FORMULA WOULD ENCOURAGE THE VOLUNTARY ENTERING INTO OF CONSENT ORDERS AND THEREFORE WOULD LEAD TO REDUCED LITIGATION BECAUSE THE PARTIES WOULD KNOW EXACTLY WHAT TO EXPECT IN COURT.

### SOCIAL SECURITY NUMBERS ON BIRTH CERTIFICATES

THE PROVISION IN S.1511 REQUIRING SOCIAL SECURITY NUMBERS OF BOTH PARENTS AT THE TIME OF BIRTH ALSO HAS PARTICULAR IMPORTANCE TO NEW YORK CITY SINCE IT ADDRESSES A VERY DIFFICULT PROBLEM FOR US, NAMELY LACK OF SUFFICIENT INFORMATION FROM THE AFDC CUSTODIAL PARENT. THE SSN IS A VERY USEFUL PIECE OF INFORMATION. IT ENABLES US TO DO MATCHES WITH THE IRS AND OTHER COMPUTER MATCHES WHICH WOULD OTHERWISE BE DIFFICULT DUE TO THE LARGE DUPLICATION OF NAMES IN NEW YORK CITY. HAVING THE FATHER'S SOCIAL SECURITY NUMBER (SSN) ON A CHILD'S BIRTH CERTIFICATE WOULD GRADUALLY ENABLE US TO ACCELERATE THE GROWTH IN THE NUMBER OF PUBLIC ASSISTANCE FAMILIES WITH CHILD SUPPORT AND PATERNITY ORDERS AND WILL LEAD EVENTUALLY TO SUBSTANTIAL ADDITIONAL COLLECTIONS.

HRA'S CHILD SUPPORT EFFORTS FOCUS ON THE GATHERING OF IDENTIFYING DATA ON THE ABSENT PARENT WITH SPECIAL EMPHASIS ON OBTAINING SSN'S. THE PROCESS BEGINS WHEN THE CUSTODIAL PARENT COMES TO THE IM CENTER FOR THE INITIAL PUBLIC ASSISTANCE (P.A.) APPLICATION INTERVIEW. THE APPLICANT IS GIVEN AN APPLICATION KIT WHICH INCLUDES THE OFFICE OF CHILD SUPPORT ENFORCEMENT'S QUESTIONNAIRE. THIS FORM QUERIES THE CUSTODIAL PARENT FOR INFORMATION ON THE ABSENT PARENT AND ADVISES HER OR HIM WHERE TO SEARCH FOR AND HOW TO OBTAIN THIS IDENTIFYING DATA. THE QUESTIONNAIRE ASKS THAT THE APPLICANT BRING ANY IDENTIFYING DOCUMENTS TO THE INTERVIEW WITH THE CHILD SUPPORT WORKER, USUALLY SCHEDULED WITHIN ONE WEEK, INCLUDING IN BOLD FACE TYPE "**ANY DOCUMENT WITH A SOCIAL SECURITY NUMBER**" ON IT. ALSO, THE CLIENT IS CONTACTED BY THE OCSE WORKER PRIOR TO THE INTERVIEW TO BRING IN THE REQUIRED DOCUMENTS AND AT THE INTERVIEW EVERY EFFORT IS MADE TO OBTAIN THE SSN.

ONCE THE APPLICANT IS ON PA, A FACE-TO-FACE INTERVIEW IS CONDUCTED EVERY FOUR MONTHS. AT THIS TIME THE RECIPIENT RECERTIFIES HER NEED FOR PA AND PROVIDES ANY ADDITIONAL INFORMATION SHE MAY HAVE OBTAINED ON THE ABSENT PARENT, INCLUDING A SSN.

OTHER INVESTIGATORY PROCEDURES ARE CONDUCTED BY THE AGENCY TO OBTAIN SSN'S. THESE INCLUDE SEARCHES OF NEW YORK STATE AND FEDERAL DATA BANKS THROUGH THE PARENT LOCATOR SERVICE AND SEARCHES OF PAST AND CURRENT PA, MEDICAID AND FOOD STAMP FILES AND CREDIT AGENCY CHECKING IN AN EFFORT TO MATCH THE ABSENT PARENTS IDENTIFYING DATA OF WITH SSN'S. EVEN WITH ALL OF THE ABOVE EFFORTS WE ARE ABLE TO OBTAIN SSN'S FOR LESS THAN HALF OF ALL ABSENT PARENTS.

OUR CHILD SUPPORT PROGRAM NOW PROJECTS THAT ITS FISCAL '88 COLLECTIONS WILL BE $48 MILLION FOR AFDC CASES AND $40 MILLION FOR NON-AFDC CASES FOR A TOTAL OF $88 MILLION. SSN'S ON BIRTH CERTIFICATES WILL NOT HAVE AN IMPACT ON THE EXISTING CASELOAD SINCE THE REQUIREMENT IN S.1511 IS PROSPECTIVE IN NATURE. HOWEVER, WE CAN EXPECT AN IMPROVEMENT IN BOTH COLLECTIONS AND ENFORCEMENT OF ORDERS IN DEFAULT WITHIN ONE TO TWO YEARS AFTER THE EFFECTIVE DATE OF THE LAW AS NEW CASES BEGIN TO ENTER THE CHILD SUPPORT SYSTEM AND BECOME ADJUDICATED. WE URGE YOUR SUPPORT FOR THIS IMPORTANT PROVISION AND THAT CONSIDERATION BE GIVEN TO MAKING IT EFFECTIVE AS SOON AS POSSIBLE.

## MANDATORY INCOME WITHHOLDING

WAGE AND INCOME WITHHOLDING ARE AMONG THE MOST EFFECTIVE ENFORCEMENT TOOLS FOR THE COLLECTION OF PAST-DUE SUPPORT AND FOR ENSURING CONTINUING UP-TO-DATE PAYMENTS FROM WAGE EARNERS OR THOSE WHO RECEIVE A REGULAR INCOME. THE NEW YORK STATE SUPPORT ENFORCEMENT ACT OF 1985 GREATLY EXPANDED INCOME EXECUTION AS AN ENFORCEMENT TOOL. HOWEVER, AS A RESULT OF THE REQUIREMENT THAT A DEFAULT OF ONE MONTH'S PAYMENT MUST OCCUR BEFORE AN EXECUTION MAY BE ISSUED AND THE REQUIREMENTS FOR NOTICE AND DEFENSE, AT LEAST TWO OR MORE MONTHS OF DELINQUENCIES MAY ACCRUE BEFORE AN INCOME DEDUCTION IS IMPLEMENTED. OUR EXPERIENCE SHOWS THAT THE GREAT MAJORITY OF RESPONDENTS EVENTUALLY BECOME DELINQUENT IN SUPPORT PAYMENTS. MANY OF THEIR FAMILIES RELY ON SUPPORT MONIES AS THEIR MAIN SOURCE OF INCOME, AND A THREE-MONTH DISRUPTION IN SUCH INCOME CAN CREATE SEVERE HARDSHIP.

WE URGE YOUR SUPPORT FOR THE ENACTMENT OF MANDATORY INCOME WITHHOLDING AS PROVIDED BY S.1511 WHICH WOULD MEAN $3 TO $4 MILLION DOLLARS IN INCREASED COLLECTIONS AND ELIMINATE THE DISRUPTION OF CHILD SUPPORT PAYMENTS TO FAMILIES IN NEED.

## PERFORMANCE STANDARDS FOR PATERNITY ESTABLISHMENT

BOTH THE HOUSE AND THE SENATE BILLS CONTAIN PROVISIONS REQUIRING THE ESTABLISHMENT OF STANDARDS FOR HOW QUICKLY A STATE MUST RESPOND TO REQUESTS FOR ASSISTANCE IN LOCATING ABSENT PARENTS OR ESTABLISHING PATERNITY. WE STRONGLY OPPOSE A NUMERICAL QUOTA FOR PATERNITY ESTABLISHMENT UNLESS SUCH QUOTA TAKES INTO ACCOUNT PRIOR PERFORMANCE AND FACTORS THAT AFFECT THE STATE'S ABILITY TO ESTABLISH PATERNITY. UNIFORM NATIONWIDE STANDARDS DO NOT TAKE INTO ACCOUNT LOCAL POPULATION DIFFERENCES OR PROBLEMS IN RESPONDING TO REQUESTS FOR ASSISTANCE.

HRA'S APPROACH IN THE CHILD SUPPORT PROGRAM HAS BEEN TO SET CHALLENGING BUT REALISTIC NEAR TERM GOALS BASED UPON EXPECTED INTERNAL IMPROVEMENTS AND LEGISLATIVE CHANGES. THIS APPROACH HAS LEAD TO THE PROGRESS WE HAVE NOTED. WITH THE CONTINUATION OF FEDERAL AND STATE EFFORTS TO STRENGTHEN CHILD SUPPORT LEGISLATION COUPLED WITH OUR OWN EFFORTS TO IMPROVE THE PROGRAM, WE CAN EXPECT COLLECTIONS TO DOUBLE IN THE NEXT THREE TO FIVE YEARS, ADDING APPROXIMATELY $50 MILLION TO ADC COLLECTION AMOUNTS. WE DO NOT BELIEVE THAT NUMERICAL QUOTAS WOULD ADD TO THIS PROGRESS.

# Comments On Child Support Enforcement With Respect To Children Who Qualify For Aid to Families with Dependent Children

March 18, 1988

The following statement is submitted to the Public Assistance And Unemployment Subcommittee of the Committee on Ways and Means by Adele M. Blong and Sherry Leiwant of the Center on Social Welfare Policy and Law on behalf of the Peoples Organization for Welfare Rights (Washington State), the Philadelphia Welfare Rights Organization (Pennsylvania), and Lori O'Grady of Washington State.

* * *

While the child support enforcement program has been of assistance to many children in need of support and has the potential for doing even better in this regard, its value to the poorest of our poor children, those who qualify for Aid To Families With Dependent Children (AFDC), is uncertain. As the program is currently structured in policy and in practice, it puts the recovery of assistance payments above the needs of these children who are its supposed beneficiaries. Their well being is also threatened by the failure to appreciate the possible limitations on the ability of the program to produce income for them.

For example, a recent Urban Institute study, which was canceled in midstream by the Department of Health and Human Services (HHS) found a dearth of necessary data and concluded that

> "Until these data are available, we will be unable to estimate how effective child support transfers could be for reducing AFDC costs and for reducing poverty. The absence of this information is a major stumbling block for the development of a coherent and informed national child support policy." Survey Of Absent Parents: Pilot Results, June 1987, at 54, Urban Institute Project Report

The absence of any basis for a conclusion that child support enforcement is a solution or even a significant help for large numbers of our poorest children is confirmed by the study's findings with respect to the poverty of noncustodial parents of poor children, findings in keeping with those of several previous studies. The researchers found very high rates of poverty among noncustodial as well as custodial parents of the children in the IV-D caseloads that they studied, which were predominantly but not solely made up of children who were then receiving AFDC or who had received it at some time. Based on these findings, they observed

> "The very high incidence of poverty in the CSE [IV-D] noncustodial parent samples, although lower than among custodial parents, suggests that there are few resources available for the support of children. Child support transfers may not therefore be a viable approach to reducing poverty for a substantial portion of the CSE population." Survey, at 22.

Even the most ardent proponents of using increased child support collection efforts as part of a response to poverty concede that these efforts alone are unlikely to move children out of poverty.

> "Still, even 100 percent collection of child support obligations derived from any reasonable standard would

> leave the overwhelming majority of the AFDC recipients no better off than they were in the absence of the program. This is because most noncustodial parents of AFDC children do not earn enough to pay as much child support as their children are already receiving in AFDC benefits. Programs to increase the employment and earnings of noncustodial fathers would help. But even the best imaginable program would still leave a large proportion of the AFDC caseload poor and dependent on government." I. Garfinkel and S. McLanahan, Single Mothers and Their Children: A New American Dilemma, The Urban Institute Press, 1986, p. 176

In light of these questions it is disheartening to say the least that so many seem to be willing to believe that increased child support enforcement efforts will meet the critical need to respond to the poverty of our children and render increases in direct governmental assistance unnecessary. Moreover, these questions suggest that our poorest children may be unfairly paying the tab for a program that benefits other children at least as much, if not more, than them and that the tab is much higher than it need be because of the failure to structure a program that corresponds to reality.

Thus, to the extent that attempts to increase AFDC benefits fall victim to budgetary pressures, those are pressures created in part by the fact that the entire federal cost of the child support enforcement program is treated as an element of AFDC costs. Both Congressional budgets and the Executive Budget routinely show a combined total expenditure for AFDC and child support enforcement which of late adds in excess of $300 million to AFDC costs. Yet 60% of the money collected under the program is collected on behalf of children not receiving AFDC. (The remaining 40% of collections includes amounts collected from parents of children who formerly received AFDC as repayment of that assistance, as well as collections on behalf of current recipients.)

While there is much to be said for increased child support enforcement efforts, there is clearly no reason based on the information currently available to assess any increased costs attributable to such efforts against the income maintenance program responsible for our neediest children. There is also ample reason to consider whether the programs should not be delinked in some way to avoid attributing costs to AFDC that are not properly attributable thereto.

The available information also cries out for reexamination of the meataxe approach to child support enforcement that is followed with respect to children receiving AFDC, particularly at the stage of securing assignments of the children's rights to support and obtaining the mother's "cooperation". Do the data support pursuing every case without respect to likelihood of success and thereby driving up program costs, or imposing major burdens on the family as the caretaker is required to show up for endless interviews at times and places of the agency's choice and is subjected to demeaning processes that do little to add to her or her children's respect of governmental enterprises. (The problems that families receiving AFDC encounter in the IV-D system are discussed in The AFDC Child Support Cooperation Requirement, Johnson & Blong, Clearinghouse Review, March 1987.) As the cases discussed below demonstrate, there are apparently already more mothers of children receiving AFDC who are pressing for agencies to pursue child support enforcement efforts than the agencies can serve.

Thus even where there is a real potential for enhancing family income through collection of child support, the program often falls short of this goal and at times even places barriers in the way of the family's receipt of support. Limitations on the passthrough of child support collections made on behalf of children receiving AFDC deny these children their fair share of the collections. The inherent conflict between the state's interest in applying collections to reimbursement of past assistance payments and its interest in increasing the family's current income, combined with the state's ability to control the collection mechanisms, has led to practises that are in direct opposition to increased income for the children involved.

The states' pursuit of their own limited immediate financial interests in derogation of the children's interests arises time and again in the pursuit of arrears after the family becomes ineligible for AFDC. Under current law, although the assignment of the child's support rights terminates at the time of AFDC ineligibility, the state continues to own the rights to all arrears that accrued before the family began receiving aid or while they were receiving AFDC and has the right to pursue collection of those arrears for reimbursement of the assistance payments. States repeatedly do so with little, if any, thought as to how those actions reduce the current income of the family and even where they are clearly on notice of the deleterious effects of their actions.

When Ms. M withdrew from AFDC because she believed that she would be able to support her family on the basis of the child support being collected from her ex-husband and her earnings, she faced a rude awakening. While her husband had been regularly paying $300 a month for two years, the amount of the required monthly support obligation had never been increased above $237 a month. Accordingly when he voluntarily increased his payments to $375 a month, the agency distributed only $237 to Ms. M and her family retaining the balance of the collections to reimburse itself for past assistance.

Unfortunately, the injustice to Ms. M almost pales beside the events that befell another former recipient of AFDC. After withdrawing from the AFDC program during six years in which the state agency did nothing to establish the paternity of her children or pursue support on their behalf, notwithstanding her full cooperation in the process, this mother filed a paternity action herself. The state then intervened asking that it be awarded a sum of support equal to the past assistance payments to her family without giving any priority to the children's current needs.

In another case, the state's disregard of the current needs of a family achieved exactly what the child support enforcement program is supposed to avoid. Denied current support payments because of the state's receipt and retention of amounts that it treated as payment of arrears to be applied to reimbursement of past assistance, a mother and her children returned to the AFDC program from which she had withdrawn in February of 1984. During the ten months while the family was trying to support itself based on her earnings alone, the agency had collected and retained some $1600. (Needless to say, the agency also never notified her that it had made any such collections.)

States even seek to keep families on AFDC and to use any improvement in the absent parent's financial situation as a source of reimbursement for past assistance rather than the current betterment of his children. As interpreted by HHS and the states, §457(b) allows states to retain amounts collected in a month that exceed the established support obligation in a month.

When Lori O'Grady learned that her former husband could probably afford to pay more than the $110 a month that her children had been awarded three years earlier, she pressed the IV-D agency to seek an increase. The agency ignored her request and instead obtained an agreement from her ex-husband, without any notice to her, to make regular monthly payments of $227.50, allowing the agency to keep $60 as reimbursement for current assistance and the difference between $110 and the monthly payment as reimbursement for past assistance.

The agency's rampant disregard for the interests of the children did not stop there. Ms. O'Grady withdrew from AFDC in August of 1987 after finally succeeding in getting a modification of the court order increasing her husband's support obligation to $380 a month, but the agency waited almost three months before serving her ex-husband's employer with a new wage assignment reflecting the increased amount. It also withheld from her part of the amounts that it did collect in those intervening three months, until corrective action was ordered after a fair hearing.

Another state went so far as to keep the current monthly obligation below the level of the required pass through so that the family could not even receive a full $50 a month. When the child's father, who had been paying monthly support of $33 a month, enlisted in the army, he voluntarily increased his support to $255 per month. The IV-D agency refrained from seeking any increase in the amount of the established support order and passed through only $33 per month, keeping the rest as reimbursement for past assistance payments, despite the mother's protest.

While some of these cases no doubt seem incredible, you should not be lulled into thinking they represent aberrations rather than established state policies. The degree to which states have lost sight of the supposed goals of the program goes far beyond the practices illustrated by these cases.

States pursue collection actions against reunited families in order to obtain reimbursement for assistance paid while the family was separated regardless of the current financial circumstances of the family. In one case, a state obtained an order of $100 per month for reimbursement of past assistance against a reunited family that had a total family income equal to 140% of the poverty level.

Perhaps it is not surprising that states pursue reunited families, however, since some states have even begun the practice of pursuing claims against the mother who received AFDC after she and her children cease receiving aid. In at least one case, a state pursued a claim against a mother for $6,853, the full amount of AFDC that had been paid to her and her child, on the ground that she had failed to fulfill her duty to support her child for the period for which she and her child had received AFDC.

Some of these abuses could be cured by the establishment of appropriate guidelines for support orders that require regular review and revision of the orders not only on a periodic basis but whenever facts are brought to the agency's attention indicating a significant change in circumstances, including facts such as the receipt of amounts in excess of the monthly support obligation or the custodial parent's presentation of information. This will clearly not be enough, however, since there is no more reason to expect strict adherence to those rules than to any other and children receiving AFDC cannot take steps on their own since they have surrendered control over their child support rights to the state. To assure adequate protection for these children, federal legislation needs to guarantee not only the right but an effective remedy where the right is denied. Agencies must be required to make good on any income improperly denied to these children by the agency's failure to pursue appropriate increases in monthly support obligations on a timely basis.

For example, if the increase would have meant an increase in the passthrough for families who would have remained eligible for AFDC despite the increase in the monthly support obligation, the state should be required to provide those amounts on a retroactive basis and there should be assurance that the state cannot count that income in any way in determining the family's eligibility for any governmental benefit or the amount of such benefits. Similarly, where the increase in the monthly support obligation would have yielded an additional income to the family over and above the amount of the passthrough, the state should be required to pay over those amounts to the family.

Also, the guidelines will not in and of themselves prevent interference with the child's ability to receive the support awarded him. Federal law must also clearly establish the primacy of the child's right to current support so long as he continues to be a minor or to otherwise require parental support. The amount to which he is entitled should represent the full amount that the parent is able to pay or voluntarily willing to contribute in excess of what he or she might otherwise be adjudged able to pay.

The receipt of AFDC should not become a millstone that will forever prevent a child from benefiting from the improved circumstances of her noncustodial parent. The state should be barred from seeking to recover reimbursement for past assistance payments until such time as the child no longer has a need for current child support. To the extent that a state fails to abide by these rules and interferes with the child's economic well being by pressing its claims in derogation of hers, it should be required to make good by paying over to her the amounts by which it has unjustly enriched itself.

Problems also permeate the application of the requirement that states pass through a certain share of the child support collected on behalf of a child receiving AFDC to that child, despite the fact that that provision is the major source of benefits for such children from the program. Until the $50 pass-through took effect, the amount of collections paid to AFDC families was minimal ($16.8 million of $1 billion collected in 1984). Now, child support payments are making a financial difference to a number of families -- they received $189 million in 1985 and $275 million in 1986 -- even though most of the money is still going to the state. Assuring that children receive a share of all child support collections is essential to any hope of providing immediate economic benefit to our poorest children from child support collections.

Both HHS and the states interpret the provisions of §457 of the Social Security Act mandating the passthrough as applying only to amounts received in a month by the IV-D agency that do not exceed the support obligation for that month. In other words, if the current monthly support obligation is $75 and the state IV-D agency in the state where the children reside receives $150 in a month representing the payment for that month and for a prior month, it passes through only $50 to the family.

This limitation results in children being denied the benefit of child support collections whenever the absent parent falls behind in making payments. It also causes children to suffer such losses when the absent parent is timely in making the payments but lives in another state or has the collections made through a wage garnishment.

Problems with garnishment seem to be endemic and suggest that the true beneficiaries of the system may be the employers of the noncustodial parents.

A garnishment order on behalf of Lori A.'s children was served on their father's employer in December 1984. The state received no payments pursuant to such order until April 1986 when it contacted the employer after Lori A. had learned from her ex-husband that his wages were being garnished and contacted the agency to learn why she had not received anything. During this 14 month period the employer had withheld over $2,000 from wages. On receipt of this amount in one lump sum, the agency paid over $50 to the children, retaining the rest as reimbursement for past assistance.

Shocking as this is, the tale was not yet over. After receiving that one payment, the agency went back to sleep until Lori A. contacted them again in August of 1986 to find out why she had received no further passthrough payments and was advised the agency had not received any payments from the employer and had not done anything to follow up. The agency was very prompt, however, in advising her that when and if they did collect a lump sum for amounts withheld during the intervening months her children would receive at most one $50 payment.

In Mary M.'s case, her ex-husband's employer regularly deducts the required $50 per week from his paycheck but routinely waits two months or more before forwarding the receipts of such deduction to the state's IV-D agency. Her children then receive only one $50 payment out of the lump sum receipt representing two or more months of timely paid child support.

Even more egregious diversions of support occur in interstate cases, cases where the caretaker and children who are receiving AFDC and entitled to support live in one state and the obligated parent lives in another. In such situations, the children are routinely deprived of the benefit of the passthrough where child support is both timely paid and collected by the agency in the state of the absent parent's residence.

This results from the fact that HHS has taken the position that determination of the applicability of the passthrough depends on receipt of child support payments in the "initiating" state, the state in which the mother and children reside. Thus, HHS says that the family is only entitled to $50 out of the total amount received by a state in a month and further says that in interstate cases this means only $50 of the total amount received by the initiating state in a month. As a result, when, as usually happens, the initiating state receives in a month an accumulation of more than one month's payments from the responding state, it passes through at most one $50 amount from such proceeds. (If the monthly support obligation is less than $50, the passthrough is accordingly reduced.)

Under the best of circumstances, it seems inevitable that the initiating state will often receive more than one month's worth of collections in a given month. The problem is magnified by the fact that the best of circumstances is the aberration rather than the norm.

Take, for example, the situation of one mother who is trying to support her children on the basis of a combination of her earnings, child support from their absent father and supplemental AFDC. While timely payment by the absent father is assured by a wage garnishment of $25 per week, the children only receive a $50 passthrough intermittently. Despite the fact that the state agency in the state of the mother and children's residence routinely receives payments for several months at a time, it has taken no action to try to obtain the payments on a regular monthly basis.

Similarly, the father of Doris M.'s children regularly made his child support payments to the clerk of the court in the city where he resides. When the clerk waited twenty-four months to forward an accumulation of $2,500 to the IV-D agency in the state where Doris M. and her children reside, the state passed through $50 to the children.

Federal law should ensure that the children receive a passthrough out of any amount that represents payment of a support obligation for a month whether that amount is received by the IV-D agency in the month for which the support was due or any subsequent month. There is neither logic nor justice to increasing the harms that children suffer as a result of late payment of child support obligations. It is even more offensive to impose those harms as the result of systemic problems over which the payer has no control such as the failure of his employer to promptly pay over withheld amounts to the appropriate agency, the failure of states in interstate cases to forward collections on a periodic monthly basis, or the luck of the draw as to how forwarding dates coincide with calendar months.

In conjunction with this change, federal law must also be amended to provide that all passed through amounts are to be disregarded in determining eligibility and the amount of payment not just the first $50 received by the family in a month.

In conclusion, we would remind the subcommittee that whatever improvements are made in the distribution of child support collections to children receiving AFDC, there is scant evidence that these payments can deal with the magnitude of the need. These efforts should be complementary to, not a substitute for, prompt increases in income maintenance benefits.

# WRITTEN TESTIMONY OF

## SUSAN SPEIR,

## PRESIDENT,

## SINGLE PARENTS UNITED 'N' KIDS (SPUNK)

Single Parents United 'N' Kids (SPUNK) is a non-profit child support advocacy group which was founded almost six years ago to help give custodial parents information on collecting child support. We are contacted by over 3,000 custodial parents every year for help. Our comments on the various categories that you are interested in are as follows:

Status of the 1984 Amendments - In California all of the provisions of the 1984 amendments have been implemented. However, one of the problems with the implementing legislation is that it is not retroactive. Only those orders issued after the date of the implementing legislation come under the new law. Orders prior to that date can come under the new laws only if the order is modified but many counties and states have a policy of no modifications on non-welfare cases or URESA cases. Therefore, to expect the older cases to come under these new laws is unrealistic. Because of not allowing retroactivity of the laws, we believe that the 1984 Amendments will not make a difference for many years to come because there are too many people under the old laws with no way of getting their orders modified.

Both judges and the business community need to be educated on the importance of wage withholding. We still find judges have a reluctance to implement wage withholding and who view it as a penalty, not a way to ensure that the child support will be paid. The business community needs a mass education program as some big businesses (and smaller ones also) will not tolerate an employee who has any kind of wage withholding. We also find there is a problem with employers who will cover (lie) for the employee by saying the employee does not work there when they actually do. The employer needs to be reminded that the money is for the children and that they have a responsibility to honor the wage assignment.

California is not using the enhanced Federal funding at all. They have made a decision that each county will be responsible for choosing any automated system that they think will suit their needs. Translated this could mean that we could end up with 58 different automated systems. This obviously is not the federal intent.

Interstate Child Support Enforcement - is a joke. Unfortunately, it is not a funny one. First of all, there is very little, if any, cooperation among the states. Second, URESA cases in general rank low on the priority list as far as those cases which get worked. Third, the non-welfare URESA cases get lower status because they are non-welfare (even though they are not suppose to by law). Fourth, many states will not do a modification on a URESA order even if the order is $10.00 a month because they either take the position that they cannot modify the order under URESA or they will not modify the order if the person is not on welfare. Fifth, some states are now trying to extend URESA'S jurisdiction into the custody issue even though the custodial parent has never resided in that state and custody is not an issue. It can be very dangerous for the custodial parent if this is allowed to continue because they could file a child support action through URESA and end up losing custody.

Some solutions to the interstate problems would be: One, educating the states (and monitoring URESA cases, if necessary) that they are to cooperate with each other. Two, education and training of staff people as to how to handle URESA cases. Three, making it clear to the states that they are allowed to modify the order upward. Many states allow a reduction, but not an increase. Four, never allow the custody issue to be addressed in a URESA action. Five, working all cases equally whether they are welfare or non-welfare.

February 24, 1988

Paternity Establishment - Two of the current problems in establishing paternity seem to be the large volume of cases and lack of staff to handle these. Also, states tend to give low priority to paternity cases because it is felt that they take a lot of time and are costly. We do not understand this attitude as studies have shown that the majority of paternity cases are uncontested and it is a matter of filing the order with the court. The benefit of establishing paternity, obviously, is that by getting a court order for child support (and getting it enforced, of course) it could get many people off welfare and keep people off who are borderline.

A barrier that seems to be up in URESA paternity cases is that some states set up their own obstacles to avoid working these cases, such as requiring the mother to come to the Responding state in order to give testimony. Obviously this is too expensive for the Initiating state and these cases will not get worked. A survey should be done of the states to find out what their procedures and requirements are prior to starting a URESA paternity case and a determination should be made by the federal government as to whether these requirements are reasonable.

Social Security numbers in the birth records is an excellent idea as in the majority of paternity cases (and many times divorce cases) the custodial parent has no idea what the non-custodial parent's social security number is and they have no way of finding out. Having the Social Security number allows the Child Support Office to find out where the non-custodial parent lives, works, and if they have any assets. It is extremely crucial. There should also be some way to cross check Social Security numbers as sometimes the non-custodial parent will change Social Security numbers so that they cannot be traced or their assets found.

Improving Collections and Enforcement - The easiest and fastest way to improve collections is by having adequate staff in every Child Support Office in the country. Every Child Support Office is understaffed and overworked. Having every Office automated would definitely be a boon to improving collections and enforcement. The potential for collecting child support is immeasurable. With adequate staff, automation and strict enforcement of laws, we would guess the potential to be approximately 20 times what it is now.

There are two very weak areas in enforcement and they are collecting from the self-employed and those "working under the table." We need stricter laws in both areas.

Also, one should not have to keep refiling for a wage assignment, it should follow the non-custodial parent around without having to continually go back to court.

Instead of having to modify orders on a regular basis a better way to go would be to have escalation clauses in the order so that it will automatically go up a certain percent every year, such as 5% to 7%. This would avoid the time and expense of going back to court. A higher modification would be allowed depending on the circumstances of the case.

The Future of Child Support Enforcement - Some of the major problems of the next decade are: Educating the states (and counties) that they have a duty to cooperate with each other, educating the business community and judges as to the importance of wage assignments, hiring and training an adequate number of staff people in each Child Support Office, getting all counties and states automated, passing effective legislation to deal with the self-employed and "not working" group and strict enforcement of current laws.

The role of the courts is critical and the judges need to be educated that they have a responsibility to strictly enforce child support laws. They need to start thinking about what non-payment of child support does to the children (not to mention the taxpayer's pocketbook). Wage assignments should be issued at the very first hearing, with no arrearages allowed. Judges also need to start using jail as an enforcement tool as it is amazing how fast non-custodial parents come up with money when they think they are going to jail.

February 24, 1988

The Future of Child Support Enforcement (Cont.) There should be no federal role in enforcing visitation rights. It should be treated as a separate issue and in no way should it be tied into child support enforcement. It is too easy to claim denial of visitation rights or custody problems in retaliation for a child support action. Kansas has an expedited visitation process and if that law is working it would seem that this would be the way to go. The expedited visitation process law is similar to the expedited child support law. That way the issue gets addressed but separately. If the visitation issue is addressed separately the custodial parent should be able to file when the non-custodial parent is not seeing the children as well as the non-custodial parent filing when they are not being allowed to see the children. It should work both ways as too often we hear custodial parents complaining that the non-custodial parent refuses to see the child or children.

Work requirements should be mandatory on non-custodial parents who cannot meet their support obligations because it is too easy in this country to "not work" and get out of paying your child support. Many times the non-custodial parent is working under the table and making very good money but is purposely working under the table to get out of paying. Also, many times when the non-custodial parent gets remarried, he will hide behind his working second wife and pretend he is not working when brought into court when in reality he is working under the table. As a mother of three said to me (she was working three jobs, 16 hours a day to support her kids) "I know he is working because he is a go-getter and when we were married he worked two jobs. Now he is remarried and supposedly not working." She said she wasn't sure how much longer she could continue her working schedule as she was about ready to collapse from exhaustion. It does seem awfully unfair that she should have to work three jobs (in addition to the job of raising three children) and he should be allowed to get away with "not working".

The role of computers and automation is critical. Statistics tell us that divorces will increase and along with that is the need for child support cases to be worked. The only way to efficiently and effectively work child support cases is with the help of computers. It also allows the Child Support Office to tap into many areas where they were not able to before because they were manual.

2031 Huidekoper Place N.W.
Washington, D.C. 20007
March 11, 1988

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Sir:

Please accept this as my statement for the printed record of the hearings of the Subcommittee on Public Assistance and Unemployment Compensation on the subject of child support enforcement. I consider myself somewhat of an expert in the matter of the frustrations of attempting to collect court ordered child support inasmuch as for nearly twenty years I have been unsuccessful in the effort.

My case is filed with Harris County, Texas. The Domestic Relations Court #2 of Harris County, Texas on August 18, 1969, ordered my daughter's father to pay $75 per month to me for the support of his daughter. This support has never been paid on any sort of regular basis.

Back in the 1970's, I engaged private attorneys to bring this man into court to answer why he had not paid. After the lengthy process of having him served with the proper papers and having court dates set and re-set, when we finally arrived in court, the judge politely asked him to start paying the support and then let him off the hook. I went through this procedure several times until I could no longer afford the money or time. During one of these court appearances, the support was ordered to be paid through the court rather than directly to me.

When the laws were strengthened, I filed the proper papers with the Attorney General's office in October 1984. That's the last I've heard from them until just recently when I enlisted the help of some congressmen. Prior to then, my letters of inquiry were unanswered. My telephone calls resulted in long waits on "hold" while they looked for my file, which they never could seem to locate.

Just this month I received correspondence from the Attorney General's office (prompted by an inquiry from Congressman Bill Archer) informing me that "this office will decline to take further action in your case" since the child in question is over 20 years old at this time. So because the Attorney General's office is overworked and couldn't seem to get around to my case, they want me to accept that a court order can be ignored if one can just outlast the minimal collection efforts.

I find this whole situation appalling and would like to have it as part of the record of these hearings.

I am thankful that this Committee is interested in solving many of the problems of child support enforcement because for so many years, nothing was done, especially for non-AFDC families.

Sharon Smith
202, 338-1527 (evenings)

Rich Hobbie
House Ways and Means Committee
Rayburn Bldg. B-317
Washington, D.C. 20515

Written Testimony - Changes of Effectiveness of
Office Child Support Enforcement

My name is Rose Palmer-Phelps, Executive Director of SUPPORT which is a non-legal court approved program that assists clients on issues of child support and custody. SUPPORT deals equally with the women and men on these issues and sees both of their concerns for a fair effective system. SUPPORT no longer sees this as an issue of "women" vs "men" but rather a "non-custodial" vs "custodial parent".

We see that when the female is the non-custodial parent, she is just as non-complient to her support order as her male counterpart. Also, that when the female is the payor, she is just as demanding on accountability as her male counterpart. We also see that when the father is the custodial parent, that he is just as likely to play the same games with the co-parenting order as his female counterpart.

No matter who has what order, for support or co-parenting it seems no one wants to live up to them and our children, our future parents, our future leaders are truely the victims of a form of parental abuse. The OCSE is there to make sure our children will be able to receive their rights to live in a life style as they would have pre-divorce. Divorce was meant to separate parents, not children. Parents should continue to be parents after divorce by living up to their parental responsibilities.

The 1984 Child Support Amendments were written to help enforce orders for all parents having difficulties with their child support order. The 1984 Amendments were long in coming and with a great deal of work of many to bring it about so that all our children could live accourding to pre-divorce life style.

Many custodial parents work two jobs to provide for their children, even if they acquire their child support. This leaves many of our children left alone for long periods of time, in a sense raising themselves. The 1984 Child Support Amendments were a step in the right direction to help many children. It was seen pre 1984 Child Support Amentments that the AFDC family received the most help in collection of child support and that these amendments would now help those families struggling to stay off the welfare role. For awhile, this seemed to be happening; then another change came about.

This change was when the OSCE was combined with another agency to form F.S.A. which has caused many concerns on our part as to whether or not the effectiveness of the child support program will be affected. We have heard more and more horror tales of what is happening to what we all worked so hard to achieve for help for the non-AFDC parent. We see these changes taking us back to phase zero and are scared what will happen to all those women/men and children in need of the OCSE to obtain their child suupport.

The recent changes in the structure and directions of the OCSE have created many concerns. In 1976 Congress made a conscious decision to maintain OCSE as a separate organizational unit and to be maintained as a single and separate under section 452(a) of the Social Security Act. This intent is now legally circumvented in direct opposition of advice by General Counsel, DHHS. If congress so desires to change the original intent, let them make this decision, not just a someone.

The OCSE is to be effective for all those utilizing it AFDC - non-AFDC parents. Yet all across the nation we have heard of stories where when a non-AFDC client goes for help they are turned away. Effective child support enforcement must be available to all single-parent families. We find with this merging of offices many non-AFDC clients are being turned away, or this new office feels their primary job is to obtain support for children who receive federal welfare payments. Our government is now guilty of non-support in helping the non-AFDC parent in collecting their childrens support.

Many of our Regional offices lost their Regional Director who are persons experienced and proven to be effect with the child support programs, many placed, to unclassified duties. Only one OCSE Regional Director served this transition. Others were replaced with those with expertise in welfare. These changes have regressed OCSE to pre 1984 focus on welfare cases, which to my understanding with working with Congress on the 1984 Child Support Amendments, goes against congressional intent.

When I attended the National Child Support Conferece in Minneapolis last summer and spoke with many of the IV D workers, they stated that they were told they had to turn away the non-AFDC client, to state they were overworked and to come back latter, or at that time they could not take on any new cases. Yet they were to take on all AFDC clients and work on their cases. This was not one state, but many. Does this not revert to pre 1984 Amendments?

Another concern of ours is with the audit changes, which are NOT consistent with GAO standards and the directors across the nation are resistant to accept them. There are too many loose ends, openings for one to slip by one of these changes and these openings will let many programs slip back to prior 1984. Rather than sending an auditor out to pull caseload samples, names will be chosen from a list that names will be selected from. Then cases can be doctored up before being sent in to show compliance.

Another concern in the intermingling with budgets. The merging of the OCSE with another office has intermingled the budgets and many areas of the CHILD SUPPORT Program is being effected. The reference center which so many grass roots organizations recieved material now take forever to get, or there are none available, and the staff has been reduced to a part-time employee. As a member of NCSAC we are greatly concerned - (see letters and attachment on NCSACS written testimony pertaining to evidence concerning wrong doings concerning these changes.)

I feel Congress needs to look closely at the changes made in the OSCE Program, are these changes effective, or are they actually hurting the general public not on welfare. Have these changes placed us back to the pre 1984 status; have the way the audits now being done been effective or useless; what happened to the OSCE budget, is it really being used for the OSCE Program?

Congress needs to see how interstate programs can work more uniformly. It should not take a year to establish a case; enforcement on out of state orders should be the same as one within the state. But that doesn't say too much because a lot of state just don't enforce period. When wage assignments are issued, the problems then become one with the employer. The monies are held for periods of time before being sent in. When a client is on AFDC they expect the fifty dollar monthly pass through. When this money is held by the employer, they miss a pass through check. When a non-AFDC parent does not receive their money it affects on what her capabilities are to provide for the children. Now the employer becomes the one non-complient.

Congress needs to take a closer look at the URESA cases. In many states they are a joke. I shutter when I hear of someone with a case in the states of Texas, California and Florida. Their response is less than minimal. It takes too long for a URESA case to be worked on effectively even in my state of Pennsylvania. If you live out of state from the payor, one might as well just forget the child support for at least one year from the date of filing.

Paternity for out of state cases need not take over a year, states need to work more effectively to expedite the process; childrens needs are not being met. Paternity Establishment is difficult enough within the same county let alone an out of state paternity case. The child will be age 18 before the case is worked on effectively. Many children will suffer not just from the lack of financial support but will suffer from the unknowing of who the true father is, who does he belong to, not to even mention the question of medical history of the child.

The IRS intercept is an automatic procedure for someone on welfare, but the non-welfare parent again is at a loss and the lack of knowledge of the program or because they don't have the funds to pay the initial filing cost. Why can't the IRS intercept be an automatic process for the non-AFDC parent? It seems that non-AFDC parent is constantly being punished for their abilities to stay off the support of our tax dollars. If money is collected on the non-AFDC client without filing why can't it be the same for the non-AFDC parent. Can this money not be held for a period of 6 months to a year with interest being acquired in the account in the custodial parents name? After this period of time has elapsed the money and interest could be turned over to the custodial parent. This can be done to help lesser the paper work for when a joint return is filed and the new spouse does not want these returns collected.

The Allegheny County Family Division in Pennsylvania is known nationally for its work on Child Support and has proved to be an effective starting program on child support enforcement, but they still have a long way to go before they can state they have an excellent program. Good, but it has to improve. Needless to say, this program is looked upon as the best in the nation. Yet I see many problems that clients face on a daily basis because of their ineffectiveness. I hate to think what the rest of the Child Support Program is like when I have to deal with what is considered the best.

I wish to thank you for your time and effort on providing a Child Support Program. We hope that it will benefit ALL, non-AFDC and AFDC clients. We all must work together to have a good program so that our children will be able to grow into adults with knowledge to know that this government cared enough to help them establish the child support paternity and custody so that they will have a right to grow healthy into adults that are both emotionally as well as physically, and that they deserve more than a monthly car payment.

Rose Palmer-Phelps
Executive Director of SUPPORT

For further documentation of proof of these changes regarding the OCSE we refer you to the attachments on NCSAC testimony. We are greatly concerned.

## STATEMENT OF NANCY-ANN E. MIN

## TENNESSEE DEPARTMENT OF HUMAN SERVICES

Finding workable solutions to the challenge of child support automation has eluded both the states and federal government since the inception of the program in 1975. Simple in concept, the IV-D program is made exceedingly complex because of the network in which it operates: AFDC, Food Stamps and Medicaid programs, court clerks, local program offices, distribution offices, often other counties and states--all are part of the IV-D network. All these interfaces and the demand to generate collections to families in a timely and accurate manner too, makes effective IV-D systems design and development both an imperative for the future growth of the program and an insurmountable barrier to its success if we do not meet the challenge.

Congress recognized this as a national priority when it extended special 90 - 10 matching for IV-D systems development. While such rates are attractive, the states and federal governments as well as the private sector continued to be frustrated by the complexity of the undertaking. To date, few, if any, state systems have been certified for the 90 - 10 match.

Why has there been such little progress? I would suggest that to a great extent the design of the IV-D program itself, particularly with respect to collection and distribution requirements, is a major part of the problem.

A perfect example is the procedure established to implement section 402(a)28 of the Act. This provision permits those states which do not pay 100% of their AFDC need standard to supplement the AFDC grant with child support collected. It is rather a simple concept: For example, if a state determines that a family needs $400.00 per month in AFDC but the state pays only 50% of the standard, the family has an unmet need of $200.00. If the absent parent contributes $200.00 per month in child support, it should go to supplement the AFDC grant.

In practice, however, the IV-D agency is not permitted to make a simple "pass-through" distribution to the family. The IV-D agency must first reimburse the $200.00 AFDC grant paid the family and then have the AFDC program issue a supplemental AFDC check of $200.00 to the family, usually delaying payment and generating unnecessary systems and fiscal activity.

Perhaps the most troublesome provisions, however, are those which prescribe procedures for collecting child support arrears to repay past AFDC grant payments. In many cases, the records for both child support and AFDC are so old that they predate the original act. Reconstruction of these records and conversion of them to the system is virtually impossible. Attempts to do so not only result in unwarranted cost and time on the part of staff but in countless administrative hearings to resolve disputes regarding the records. In the final analysis, I believe this aspect of the collection and distribution policy has caused the system paralysis in IV-D.

It is my position that IV-D collection and distribution policy be thoroughly reviewed with an aim toward simplification, particularly systems simplification. Additionally, I would recommend that states be given the latitude to phase-in collection systems in a reasonable fashion, which would include an option as to how and when arrearages and past AFDC payments are entered. The regulations might also permit states to draw a reasonable time line in collection of past due amounts.

Such an approach would prove cost effective in the long run and would remove a major barrier to the program's continued growth and development. Without simplification. I fear that IV-D computerization will not become a reality.

**VOICES** **Virginians Organized to Insure Children's Entitlement to Support**
2010 Clark Place, Alexandria, VA 22308
703/765-6925 (home) 703/524-1864 (work)

WRITTEN TESTIMONY OF

STEPHANIE R. GODLEY,

VICE PRESIDENT,

VIRGINIANS ORGANIZED TO INSURE CHILDREN'S

ENTITLEMENT TO SUPPORT

(VOICES)

VOICES is a self-educating, peer support organization formed and operated, on a voluntary basis, by parents who live in Virginia and who are experiencing problems with child support collection. Our organization is affiliated with numerous similar groups throught the United States, thereby making other informational resources available to us. VOICES is also a member of the National Child Support Advocacy Coalition (NCSAC).

The majority of our comments will deal with interstate child support enforcement. We believe that this area of child support is one of the most lacking -- both in enforcement and understanding of those involved.

One of the most critical problems is the lack of staffing in most child support offices. The average caseload for a child support case worker is between 900 and 1200. Needless to say this does not allow for very careful review of cases.

With regard to staffing, the Social Security Act states that the Secretary of the Department of Health and Human Services has the authority to set minimum staffing requirements through the Director of the Child Support Office. This has never been complied with and would lead one to wonder if in fact, the Child Support Program has been doomed from the beginning because of inaction at the federal level.

We would pose the question: Is there commitment at the federal level to improve or even efficienctly run our Nation's child support enforcement program?

Education is a very important part of the process if you are a custodial parent seeking child support. The myth is, that once you submit your case to a state agency everything will take care of itself. This is not the case. Whether your case is in-state or out-of-state, personal involvement is required. Most mother's are not aware of this very important fact and most caseworkers are reluctant to say -- "if you don't get your child support check call me because I don't have time to keep track of payments on all my cases."

As part of the educational process in interstate cases, the custodial parent should not only be told what she is expected to do -- calling weekly or monthly if payments aren't received; then calling again to see if action has been initiated for enforcement and double checking all the time to make sure the case hasn't fallen through the cracks -- but what she can expect the responding state to do with her case.

What the responding state will do varies between almost every state. There is no uniformity in the laws with respect to interstate child support cases. This makes it very difficult for even case workers to keep up. Once a case is transferred to the responding state (where the non-custodial parent resides) the initiating state relinguishes jurisdiction of the case and severely reduces their control to only being able to monitor the case. And, in some responding states no action will be taken at all unless requested by the initiating state.

Historically, it is very easy for an interstate case to get lost among questions of who should be doing what and when. The custodial parent needs to be made aware that the success of an interstate case depends on their persistence and willingness to learn how the system works. The first thing they need to learn is that a non-AFDC URESA case is the last one to be worked.

One way for a custodial parent to educate herself is to become involved in a local child support advocacy group. In the last few years these groups have been organized in virtually every state. As , a result, advocates who have URESA cases have benefited through their networking.

URESA was established to provide legal recourse without the custodial parent's appearance at hearings in the responding state. This proves to be a disadvantage in many cases. A personal appearance by a custodial parent is often necessary to bring an element of truth to the proceedings.

We previously stated that a disadvantage to URESA was that control of the case is relinguished. This is most apparent and harmful when there are arrearages on a case. Even though legislation was passed to prevent modification of arrearages, there are ways to circumvent this. In many cases, current support is reduced and the difference between the old and new award is applied to the arrearages. The end result is that you do in fact lose the arrearages.

Recommendations:

1. Short of making non-support a federal offense, it should be made a felony in every state.

2. Establish minimum staffing requirements for state child support offices.

3. Monitoring should be done from issuance of an order on a proactive rather than reactive basis.

4. Although equal services for all cases were mandated in the 1984 Child Support Amendments, it is fact that equal services are not provided. The Federal Office of Child Support Enforcement should insure that all states comply with the provision for equal services.

5. Specific timeframes and performance measures need to be established for all procedures.

6. Remove the cap on incentive payments for non-AFDC collections.

7. Money received as incentive payments should be reinvested into the child support program and not put into a state's general fund.

**Women and Children Against Judicial Rape**
*A Non Profit Family Law Organization Offering Legal Assistance,*
*Counseling and Family Support Services*
*1019 North Hayworth, Suite #4*
*Los Angeles, California 90046*

Executive Director
SHEILA SCOTT
(213) 656-5203

RE: THE DEHUMANIZATION,
EMOTIONAL ABUSE AND DESTRUCTION OF OUT OF WEDLOCK CHILDREN
BY THE U.S. GOVT. & JUDICIARY SYSTEM

Feb. 25th, 1988

To: Robert J. Leonard
Chief Counsel
Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Leonard and entire U.S. Legislature,

The U.S. is "murdering" the emotional and total stability and possible successful future opportunities of our out of wedlock children by its heartless judiciary system which punishes them for being born, and which blatantly discriminates against them.

The U.S. Govt. through a FEDERAL BILL MUST ABOLISH THE RES JUDICATA PRINCIPLE OF LAW (AND JURIES) FOR ALL OUT OF WEDLOCK CHILDREN WHO HAVE BEEN PREVENTED BY THE JUDICIARY FROM TAKING ALL STATE OF THE ART BLOOD TESTS, ESPECIALLY THE DNA, GENETIC FINGERPRINTING WHICH POSITIVELY ESTABLISHES PARENTAGE.....AND JURIES MUST BE ABOLISHED IN PATERNITY CASES AS THEY ARE UNCONSTITUTIONAL AND DO NOT SERVE THE PUBLIC INTEREST IN SAID PATERNITY CASES WHERE SCIENTIFIC EVIDENCE CAN ESTABLISH PATERNITY RATHER THAN USING AN UNLEARNED JURY PANEL OF 12 WHO ARE INSTRUCTED TO FIND FOR THE PUTSTIVE FATHER UNLESS THE OUT OF WEDLOCK CHILD PROVES FIRST THAT "SEXUAL INTERCOURSE" TOOK PLACE WHEN HE/SHE WERE CONCEIVED. The jury is told to ignore scientific evidence of blood tests unless intercourse is first proven.

This is reprehensible, prejudicial law and out of wedlock children are doomed from the beginning of paternity suits when their lives have to depend on ignorant juries and biased judges to whom they cannot prove sexual intercourse took place unless a video camera or person were present suring said act...NO EXPENSIVE TRIALS ARE NECESSARY WHEN THERE IS SCIENTIFIC EVIDENCE AVAILABLE TO DETERMINE 100% THE PARENTAGE OF CHILD.

If the RES JUDICATA rule is ABOLISHED, out of wedlock children who lost paternity suits throughout the states, (even with a high blood test result) could return to court and be allowed to take the new DNA GENETIC FINGERPRINTING TEST along with mother and putative father. Consequently paternity would be established beyond a shadow of a doubt and these children could get off the welfare roll ....and most important, they would not be forced to go through life stigmatized, rejected by society and permanently scarred by not knowing who is their father and by remaining without a legal paternal identification. Many of these children who have been so damaged and devastated by society and the courts will find a way to get "even" with them for the destruction of lives they caused. I beg you not to let this happen.

It is cruel and inhuman punishment to allow this infliction of irreversible harm on out of wedlock children, American Citizens who are being punished for the rest of their lives because of unfair, discriminatory practices in paternity suits throughout our states where our apathetic, uncaring, local, national and federal governments remain insensitive and neglectful to these children who have been protected least in THE LAW.

SHEILA SCOTT
MOTHER OF DALE EVERETT WHO
HAS BEEN DENIED HIS BASIC, CIVIL,
HUMAN RIGHT TO KNOW THE
IDENTITY OF HIS FATHER AND
HIS AMERICAN ROOTS

II

GOVERNMENT IS PUNISHING AND
ABUSING OUR OUT OF WEDLOCK
CHILDREN:

So far local and Federal Government have not expedited any action or introduced bills to fully protect the basic, civil, human and constitutional rights of our out of wedlock children. I have been trying for almost 15 years, since my out of wedlock child's birth to convince the legislature of CA and Washington, D.C to enact a bill which will make all paternity laws uniform and which would compel an EVEN APPLICATION OF SAID LAW THROUGHOUT THE STATES FOR ALL OUT OF WEDLOCK CHILDREN.

My attempts to seek and obtain justice for my son and all others like him have fallen on deaf ears including all those Senators and Congressmen and Congresswomen I spoke to personally in 1981 when I went to Washington to advise them of the deplorable legal and judicial treatment and laws pertaining to out of wedlock children in CA and other states.

A few states like Colo. and Maryland have made efforts to keep paternity suits from going to trial by declaring paternity based on the results of scientific blood tests. CA. has not! I have made the CA legislature and the CA representatives (Alan Cranston, Pete Wilson, etc. etc. aware of the necessity and urgency for change in paternity laws but have been told "there is nothing I can do", "besides" there are more men in the legislature, many of whom are attorneys and they certainly wouldn't pass anything so drastic in a paternity bill!"

Hence, no effective bills have been introduced or passed which would protect our out of wedlock children to whom the civil, human, and constitutional right to know the identity of their fathers has been denied.

1. Res Judicata and juries in Paternity suits must be abolished. (PATERNITY IS FAMILY LAW...NOT A CRIMINAL CASE!)
2. Every child, whether or not he/she lost a paternity suit must immediately and without haste be given the right and opportunity, along with mother and putative father, to take the DNA, Genetic Fingerprinting test which establishes parentage 100%.(Cost of test from 400.00 to 600.00)
3. States or Fed. Govt. should pay for test as this would be cost effective since mothers and children would be able to get off welfare which is now costing hundreds of millions $.
4. No judge in any state should be given the discretion to refuse said tests for any party requesting them.
5. Child and mother do not have to prove first that sexual intercourse took place before acceptance of scientific blood test results.

Government and society must protect the rights of our out of wedlock children...STOP BLAMING AND BURDENING THE MOTHERS.AND CHILDREN...WE ARE THE VICTIMS.....NOT CRIMINALS!

I am attaching pertinent data on paternity and part of the incorrect, egregious, unlearned opinion of CAL APP 2 which has impacted and damaged all out of wedlock children in CA...It is my son's case which should be investigated and corrected with his human and const. rights restored.

cc: all relevant public officers

Respectfully submitted, Sheila Scott

Sheila S. Scott
1019 N. Hayworth #4
Los Angeles, Calif. 90046
213 656-5203

## Assembly Bill No. 3326

## CHAPTER 629

An act to add Section 895.5 to the Evidence Code, relating to blood tests.

[Approved by Governor August 29, 1986. Filed with Secretary of State August 29, 1986.]

### LEGISLATIVE COUNSEL'S DIGEST

AB 3326, Moore. Blood tests.

Existing law provides that in a civil action in which paternity is a relevant fact, the court may order the mother, child, and alleged father to submit to blood tests, as specified.

This bill would provide that there is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. It would specify that the presumption may only be rebutted by a preponderance of the evidence.

*The people of the State of California do enact as follows:*

SECTION 1. It is the intent of the Legislature to standardize the process by which paternity is established in order to achieve a greater degree of equity and consistency in paternity determinations. The Legislature finds that the science of genetic testing has advanced to the degree that paternity determinations resulting from such testing are so reliable that the burden of proof can be shifted to the putative father.

SEC. 2. Section 895.5 is added to the Evidence Code, to read:

895.5. (a) There is a rebuttable presumption, affecting the burden of proof, of paternity, if the court finds that the paternity index, as calculated by the experts qualified as examiners of genetic markers, is 100 or greater. This presumption may only be rebutted by a preponderance of the evidence.

(b) As used in this section:

(1) "Genetic markers" mean separate identifiable genes or complexes of genes generally isolated as a result of blood typing, at least seven of which are normally tested in a paternity determination.

(2) "Paternity index" means the commonly accepted indicator used for denoting the existence of paternity. It represents the mathematically computed probability that the putative father is the true father of the child, as opposed to any other man of similar ethnic background. The paternity index, computed using results of various paternity tests following accepted statistical principles for the computation of probability, shall be in accordance with the method of expression accepted at the International Conference on Parentage Testing at Airlie House, Virginia, May 1982, sponsored by the American Association of Blood Banks.

95 60

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excluded my other
Urrent amendments to:
1. eliminate juries in paternity cases.
2. expunge res judicata rule for children in paternity cases that were lost in spite of high blood test probibility score.
3. state that out of wedlock children do not have to prove sexual intercourse took place between their parents(as in EVERETT vs. EVERETT) 201,Cal.Rptr. 351 Cal.Ap2 1984.) Bld. test results prove or disprove this.

4. State that judges "MUST ORDER" all state of the art, scientifically accepted blood tests which can establish paternity.

2 — FOCUS Sunday, March 3, 1985/DAILY NEWS

Daily News
ESTABLISHED 1911

BYRON C CAMPBELL
President and Publisher
TIMOTHY M KELLY
Editor
... Sek, Managing Editor
Thomas ... Gear Editor Editorial Pages

## Public Forum

We need Emergency federal legislation re Uniform paternity act (made retroactive) for all out of wedlock children who have not had opportunity to Take DNA – Every judge in Every state should be compelled to order state of the art tests that establish paternity – Judges should not be given "discretion" to refuse these tests which will establish child's rights of knowledge of parentage

S. Scott

*We welcome letters to the editor on all issues of public concern. The writer's signature, home address and daytime telephone number must be included. Letters should be typed, and all are subject to editing and condensation. They will not be published with pseudonyms or with the writer's name withheld. Mail letters to: Public Forum, P.O. Box 31100, Los Angeles, CA 90051.*

## Blood tests applied unfairly for children

The uneven application of law and the hypocrisy of the State of California are intolerable and unconscionable.

Kidnapped at age 1½ years, a 5-year-old girl was recently returned to her parents after cellular and blood laboratory tests reportedly showed that she was Elvia Vasquez, the missing daughter of Javier and Juanita Vasquez of Venice.

These very same blood tests are being rejected by some judges and juries in paternity cases where children are being denied their paternal identities because they cannot first prove sexual intercourse occurred before consideration of the results of said blood tests.

Elvia Vasquez did not first have to prove that her parents had sexual intercourse before the authorities returned her to her parents — the blood tests were proof enough. Why, then, should other children in paternity disputes have to prove to judges and juries that sexual intercourse took place before consideration of the results of their blood tests?

This uneven application of the law is a blatant violation of children's civil and constitutional rights. It should be amended immediately, especially for the existing thousands of out-of-wedlock children throughout California and for those yet to be born who will not be as lucky as Elvia Vasquez, since the state discriminates as to who shall be singled out for adjudication of parentage through these blood-test results.

Why aren't Pro-Lifers like President Reagan, Senator David Roberti and (Rev.) Jerry Falwell doing something constructive to help children already born who are being denied paternal identification by the State of California through the very same blood tests which gave Elvia Vasquez back to her parents?

SHEILA SCOTT
West Hollywood

THERE is NOW NO REASON OR EXCUSE FOR ANY child in These U.S. To be STIGMATIZED & DENIED a Paternal Legal Identification!

## CHILD SUPPORT ENFORCEMENT IN ACTION

### DNA FINGERPRINTING$^{sm}$: THE FUTURE OF PATERNITY ESTABLISHEMENT

By Anna Uchman
Product Manager, Cellmark Diagnostics

A new, revolutionary method of personal identification is now available for use in paternity determination. Unlike current methods of paternity establishment - blood typing, HLA and other genetic methods - which can only exclude falsely accused men, the DNA FINGERPRINTING$^{sm}$ test shows with certainty whether the person is or isn't the father of a child. This is the first "yes/no" paternity test that has been developed.

The science of DNA FINGERPRINTING$^{sm}$ relies on advances in biotechnology - on the ability to look at an individual's genetic structure - DNA. DNA is a series of long molecules that contain all the genetic information for an individual. It is composed of two strands that fit together like a zipper. In many thousands of places, the DNA chain is interrupted by a series of identical DNA sequences. These segments are called "repetitive DNA." For each person, the length and number of these repetitive sequences are different. It is this difference that the "gene probe" technology utilizes to show the dissimilarity among people. Gene probes are special molecules that seek out a specific sequence that they match - like the teeth of a zipper - and attach themselves to it.

Dr. Alec Jeffreys of the University of Leicester in England has discovered a unique class of gene probes that detect the repetitive DNA. Unlike conventional DNA probes that have recently been used in conjunction with other tests for paternity establishment, the Jeffreys probes, used exclusively by Cellmark Diagnostics, identify a considerably greater number of individual characteristics (points) than conventional probes which only detect one or two points. This difference is the basis for the enormous accuracy of DNA FINGERPRINTING$^{sm}$ compared to other probes.

The process used to visualize these unique characteristics, using the Jeffreys probes, starts with the extraction of DNA from a blood sample. Then through a series of steps, which includes binding of radioactively labeled Jeffreys probes to the repetitive DNA and their subsequent exposure to a film, a DNA FINGERPRINT is produced.

The DNA FINGERPRINT on film looks like a bar code, or a series of stripes that are used on grocery and other retail products. This pattern of bands is as unique for each person (except identical twins) as a normal fingerprint, but from which additional information relating to the parental origin can be derived. This is possible because half of a child's DNA pattern is inherited from the mother, and the other half from the father. Although the child has DNA characteristics of both parents, he/she is a unique individual. The chances that two unrelated people will have the same DNA FINGERPRINT have been calculated to be, on average, one in 30 billion.

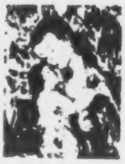
To establish paternity, DNA FINGERPRINTS of the mother, child and the alleged father are compared. First, all the bands that are in the same place in the child's and mother's bar codes are identified and marked. The remaining bands in the child's DNA FINGERPRINT must have come from the father. All of the child's paternal bands must be present in the alleged father for paternity to be assigned. If that is true the alleged father is found to be the biological father. The man will be excluded as the father when few if any of the bands in his DNA FINGERPRINT match the paternal bands in that of the child. On average, 10 to 15 bands will mismatch in a case of nonpaternity. (For more information call Cellmark Diagnostics at 1-800-USA-LABS)

CC: Gov. Deukmejian
Ways & Means - Wash. D.C.
Entire: Ca. legislature → Gwen Moore, Dianne Watson etc.
Judiciary Committees (Local, National Fed.)
D.A. - Atty. General

* RES JUDICATA AND JURIES MUST BE ABOLISHED IN ALL PATERNITY CASES SO THAT EVERY INNOCENT, OUT OF WEDLOCK CHILD WILL HAVE THE OPPORTUNITY TO TAKE THE ABOVE DNA TEST WHICH WILL ESTABLISH HIS/HER PATERNAL IDENTIFICATION WHICH IS A BASIC, CIVIL, HUMAN AND CONSTITUTIONAL Right of each & every Child!

Executive Director
SHEILA SCOTT
(213) 656-5203

**Women and Children Against Judicial Rape**
*A Non Profit Family Law Organization Offering Legal Assistance,*
*Counseling and Family Support Services*
*1019 North Hayworth, Suite #4*
*Los Angeles, California 90046*



THERE MUST BE NO RES ADJUDICATA BETWEEN STATES

RE: OUT OF WEDLOCK CHILDREN IN PATERNITY SUITS.

THERE MUST BE A FEDERAL REGULATORY BILL WHEREBY EVERY PUTATIVE FATHER MUST PAY STATE REIMBURSEMENT OF WELFARE MONIES IF HE IS FOUND TO BE THE FATHER REGARDLESS OF RES ADJUDICATA BETWEEN MOTHER, FATHER AND CHILD.....CHILD MUST ALWAYS HAVE RIGHT TO ESTABLISH PATERNITY 100%, especially since we have NEW GENETIC FINGERPRINTING WHICH SHOULD BE USED UNIFORMLY THROUGHOUT THE STATES.... THEN WELFARE EXPENSES WOULD BE DRASTICALLY REDUCED AND TAXPAYERS WOULD NOT HAVE BURNHEN OF SUPPORTING OUT OF WEDLOCK CHILDREN AS IN MY SON'S CASE WHICH IS COSTING THE TAXPAYER HUNDREDS OF THOUSANDS OF DOLAARS IN MEDICAL, FOOD STAMPS AND AFDC PAYMENTS. TESTS ONLY COST $400.00 to 600.00 and is cost effective.

Kindly respond to the above.

And I beg you to enact an emergency bill eliminating res adjudicata. Then my son and I could get off the welfare roll and all back child support could be applied for... We need oppertunity to take the DNA tests which will positively establish paternity...res adjudicata is preventing us from doing so.

Sincerely,

Sheila Scott

Sheila Scott

SS:ss

Dale Andre Lee EVERETT, by his Guardian Ad Litem, Caryl Warner, Plaintiff and First Appellant,

v.

Chad EVERETT, Defendant and Respondent.

Sheila Scott, Plaintiff and Second Appellant.

Civ. 68778.

Court of Appeal, Second District, Division 3.

Jan. 19, 1984.

Certified for Partial Publication.*

As Modified Feb. 1, 1984.

Hearing Denied March 15, 1984.

Action was brought on behalf of child to determine his paternity. The Superior Court, Los Angeles County, Raymond Cardenas, J., entered judgment finding defendant not to be the father, and child and mother appealed. The Court of Appeal, Lui, J., held that: (1) trial court's failure to order additional blood tests requested by child was ~~not prejudicial~~ error where result would not have differed had additional tests been ordered, and (2) instructions regarding probability of paternity results were proper.

Affirmed.

1. Appeal and Error ⟹930(1)

Where no special findings are made, reviewing court may infer that jury by its general verdict found for respondent on every issue submitted.

2. Appeal and Error ⟹930(4)

Jury's general verdict imports findings in favor of prevailing party on all material issues and if evidence supports implied findings on any set of issues which will sustain the verdict, it will be assumed that jury so found.

3. Children Out-of-Wedlock ⟹73

In action brought by guardian ad litem on behalf of child to determine paternity, trial court's failure to order additional blood tests requested by the child was not prejudicial error where, because child did not sustain his burden of first proving sexual intercourse had taken place before reaching issue of paternity using evidence of blood test results, result would not have been different had additional tests been ordered. West's Ann.Cal.Evid.Code § 892.

this case must be inves-t-igated & corrected

Const. violation throughout

CASE impacts on all out of wedlock Children

4. Children Out-of-Wedlock ⟹58

Statute authorizing trial court to order blood tests in action to determine paternity of child is mandatory in requiring trial court to order mother, child, and alleged father to submit to any blood test requested by party upon timely motion and discretionary only when trial court orders blood tests on its own initiative. West's Ann.Cal.Evid.Code § 892.

5. Children Out-of-Wedlock ⟹58

Under statute authorizing trial court to order blood tests in action to determine paternity of child, if objection is made to request for specific test, party seeking such test must make minimal showing that probative value of results will outweigh financial burden and inconvenience to parties sought to be tested; if such showing is not made, trial court may properly reject the request. West's Ann.Cal.Evid.Code § 892.

6. Children Out-of-Wedlock ⟹58

Under statute authorizing trial court to order blood tests in action to determine paternity of child, repeated requests for additional blood tests, each requiring party to have blood drawn anew, which are calculated to annoy, harass, or embarrass a party rather than to produce reliable scientific evidence, may be denied by trial court. West's Ann.Cal.Evid.Code § 892.

7. Children Out-of-Wedlock ⟹45, 58

Statute authorizing trial court to order blood tests in action to determine paternity of child dictates ordering of blood tests when requested, provided balance is struck between necessity for such evidence and inconvenience and costs of such testing to parties, but results of test are still subject to usual rules of evidence and their admissibility depends upon showing of relevance and laying of adequate foundation in forum of pretrial evidentiary hearing. West's Ann.Cal.Evid.Code § 892.

8. Trial ⟹206

When relevance of scientific evidence before jury depends upon validity of underlying assumption, jury must be instructed to determine whether assumption is valid and to disregard evidence if it finds such assumption invalid.

9. Trial ⟹138

Where statistical evidence is derived from formula which relies upon certain factual assumptions, accuracy of those assumptions must be determined by jury as preliminary fact before statistical evidence may be accorded any weight. West's Ann.Cal.Evid.Code § 403(c)(1).

10. Children Out-of-Wedlock ⟹60

In proceeding to determine paternity of child, trial court did not err in instructing jury on assumption inherent in statistics dealing with probability of paternity where the probability was not based on empirical facts but was employed to make the probability formula work and merely highlighted jury's duty to consider accuracy of the assumption before giving weight to the probability of statistics.

11. Children Out-of-Wedlock ⟹60

In proceeding to determine paternity of child, trial court did not err in instructing jury that probability of paternity results and assumption of intercourse upon which results were based were not circumstantial evidence that intercourse had taken place.

12. Children Out-of-Wedlock ⟹58

In order to support finding of paternity, jury must find independently of results of probability of paternity tests that alleged father and mother had intercourse at or about time child could have been conceived.

13. Children Out-of-Wedlock ⟹73

Child who sought to obtain determination of paternity could not claim reversible error in giving of instruction which, while not erroneous, was misleading, where instruction was given on his request.

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Caryl Warner, Lorraine C. Gollub, and Joan Celia Lavine, Jeffrey Lee, Los Angeles, for plaintiff and first-appellant.

Sheila Scott in pro. per.

John K. Van de Kamp, Atty. Gen., S. Clark Moore, Asst. Atty. Gen., Norman H. Sokolow and Andrew D. Amerson, Deputy Attys. Gen., as amicus curiae on behalf of plaintiffs and appellants.

Mitchell, Silberberg & Knupp, Edward M. Medvene, Marilyn E. Levine and Michael Barclay, Los Angeles, for defendant and respondent.

LUI, Associate Justice.

## SUMMARY

In this appeal, we affirm a judgment following a jury verdict finding the defendant and respondent not to be the father of the minor child.

## STATEMENT OF THE CASE

In September 1973, appellant Sheila Scott (Scott) filed a paternity action (referred to hereinafter as the "original action") against respondent Chad Everett (Everett) alleging him to be the father of her minor child Dale Everett (Dale). Following a five-day jury trial, the parties settled the original action, stipulating to a judgment that provided, among other things, that Everett was not the father of Dale. Scott waived her right to move for a new trial and her right to appeal. Everett agreed to pay Scott a lump sum of $5,000 and her attorney's fees of $27,500, and to purchase an annuity policy which would generate monthly payments of $275 to Scott for the benefit of Dale until he reached 18 years of

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* Certified for publication, except for Contentions on Appeal, Nos. 3, 4, and 5 (post, p. 355), and Discussion, parts III (post, p. 365). California Rules of Court, rule 976.1.

Executive Director
SHEILA SCOTT
(213) 656-5203

**Women and Children Against Judicial Rape**
*A Non Profit Family Law Organization Offering Legal Assistance,*
*Counseling and Family Support Services*
*1019 North Hayworth, Suite #4*
*Los Angeles, California 90046*

Feb. 19th, 1988

Att: The Honorable Thomas Downey
& Entire Senate and House
Committees re: PATERNITY AND
DISCRIMINATION AGAINST OUT OF
WEDLOCK CHILDREN AND THEIR MOTHERS:

Please be advised that CA does not deserve to receive Federal funds as a reward for not pursuing the "best interest" of out of wedlock children who are losing paternity suits and their right to know their parentage because THEY CANNOT PROVE THEIR PARENTS HAD SEXUAL INTERCOURSE and in spite of high paternity blood test results.

The aforementioned is the law of CA. and judges have refused to order all state of the art blood tests and DNA Fingerprinting which can establish paternity. The CA legislature has refused to amend and strenghthen paternity laws and as a result more women and children have been forced on welfare and taxpayers have been burdened with supporting out of wedlock children and their mothers rather than compelling fathers to support their children MY SON AND I HAVE BEEN ON WELFARE SINCE 1981 because JUDGE CARDENAS OF THE SUPERIOR COURT REFUSED TO ORDER STATE OF THE ART BLOOD TESTS AND JOAN KLEIN, LUI AND DANIELSON OF APPELLATE COURT UPHELD HIS PREJUDICIAL (HARMFUL) DECISION AS DID THE CA. SUPREME AND U.S. (rejected) SUPREME COURTS. (All out of wedlock children should be given opportunity to re-litigate paternity issue if they lost case and did not take DNA)

An amicus brief was submitted by the Attorney General and D.A. Association supporting that my son's basic constitutional rights were violated and that the adverse actions and decisions in his case impacted on all out of wedlock children in the state of California. The entire legal and medical communities were shocked that my son was denied his constitutional right to establish his paternity through all scientific evidence available. (U. S. Senate and Congress should see to it that every out of wedlock child has opportunity to have DNA testing to estab. paternity)

My son's case should be investigated by your committee as the laws and precedents established in his litigation has jeopardized all out of wedlock children in Ca. And juries should be abolished as paternity is Family Law, not a criminal case. (ON PAT. SUITS)

I cannot afford to come to Washington to give testimony which I know would have been very valuable.....The house and senate should be made aware of the dehumanization and judicial abuse which was perpetrated on my child and me and others like us.....we are not protected by the laws nor does the constitution protect our "inelienable" rights.

We need a uniform bill on paternity which will represent protection for all women and their out of wedlock children within all our states... there is presently an uneven application of law in paternity suits and our children are suffering and taxpayers are burdened.

I am attaching some info. on my son's case which affects all out of wedlock children...also a bill which I convinced Assemblywoman Moore to introduce which left out 4 other of my important ammendments and ~~to~~ even though it is now law it is ineffective, and not retroactive. All children should have the right to re-litigate their cases with the submission of of DNA evidence which can establish paternity 100%... I would like to Testify and would appreciate your response. Sheila Scott Sheila Scott

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